THE BOMBAY LAND-REVENUE CODE, 1879.

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BOMBAY ACT No. V OF 1879.[1]

[*17th July, 1879.*]

An Act to consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to Revenue-officers, and to the assessment and recovery of land-revenue, and to other matters connected with the land-revenue-administration; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the Bombay Land-revenue Code, 1879. Short title.

It extends to the whole of the Presidency of Bombay except the Scheduled Districts, as defined by [2] Act XIV of 1874 and the [3] City of Bombay. Local extent.

[*Commencement*]. *Rep.* [4] *Act XVI of 1895.*

2. The Regulations and Acts mentioned in the Schedule A * * *[5] are repealed to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them. Enactments repealed.

All references made in any Bombay Regulation or in any Act of the Governor of Bombay in Council, or in any Act of the Governor General in

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1875, Pt. V, p. 62, and *ibid*, 1879, Pt. V, p. 81; for Reports of the Select Committee, *see ibid*, 1876, Pt. V, p. 166, and *ibid*, 1877, Pt. V, p. 74, and for Proceedings in Council, *see ibid*, 1875, Pt. V, p. 65, *ibid*, 1877, Pt. V, pp. 198, 210, 234, 252, 417, 418, *ibid*, 1878, Pt. V, p. 40, *ibid*, 1879, Pt. V, pp. 112 and 124.

The proceeds of all fees levied under this Act for permission to remove sand or to quarry are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884),—*see* s. 44 of the latter Act, *infra*, p. 847.

[2] General Acts, Vol. II, p. 467.

[3] Bombay Act 5 of 1879 has been declared in force in the whole of Sindh by Government Notification in the Revenue Department, No. 4956-B., dated the 30th June, 1904, *see* Appendix to Vol. I of this Code, p. 341.

Section 85 and the last 15 words of s. 58 are not in force in the Pánch Mahál—*see* the Pánch Mahál Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code, p. 213.

Sections 68, 72, 73, 74, 99, cl. (*b*), 104, para. 2, 109, 110, 112, 150, cl. (*b*), and 153 of Bom. Act 5 of 1879, do not apply to any village in the district of Ratnágiri or the district of Kolába to which the Khoti Settlement Act, 1880, extends; and ss. 103, 118, 119, 123, 136, 150, cl. (*f*), and 162 of the Act are subject to modification when applied to any such village—*see* the Khoti Settlement Act, 1880 (Bom. Act 1 of 1880), ss. 1 and 39, *infra*, p. 776, and the Khoti Settlement Act Amendment Act, 1904 (Bombay Act 3 of 1904), s. 10, Vol. IV of this Code.

Sections 38 to 40, 44, 60 to 67, 76, 82, 85, 109, 110, 116, 127 to 136, 163, 216 and 217 of Bom. Act 5 of 1879 do not apply to any estate in the districts of Ahmedabad, Kaira, Broach or Pánch Mahál to which the Gujarát Táluqdárs Act, 1888, extends; and ss. 3, cl. (*1*), 46, 54, 79A, cl. (*a*), 88, 89, 94, 111, 113, 147, 150, cl. (*f*), 160, 162, 214, of the Act, and the words "occupant" "registered occupant" and "occupancy" throughout the Act, are subject to modification when applied to any such estate—*see* the Gujarát Táluqdárs Act, 1888 (Bom. Act 6 of 1888), ss. 1 and 33, Vol. III of this Code, and the Gujarát Táluqdárs (Amendment) Act, 1905 (Bom. Act II of 1905), s. 6, Vol. IV of this Code.

[4] Vol. I of this Code, p. 223.

[5] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Council passed before the coming into operation of the [1] Indian Councils Act, 1861, to any enactment hereby repealed shall be read as if made to the corresponding portion of this Act. 24 & 25 Vict., c. 67.

And all rules prescribed, appointments made, securities furnished, powers conferred, orders issued and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, furnished, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any enactment hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

[2] (1) "Revenue-officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land-revenue or of the surveys, assessment, accounts or records connected therewith [3][and for the purposes of sections 25 and 26 includes a village officer appointed or officiating under any of the provisions of the [4] Bombay Hereditary Offices Act or the [5] Matádárs Act, 1887]. Bom. Act III of 1874. Bom. Act VI of 1887.

(2) "Survey-officer" means an officer appointed under, or in the manner provided by, section 18 * * * [6]:

(3) the word "Collector" means the Collector of the district:

(4) "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory:

(5) "estate" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same:

(6) "survey-number" means a portion of land of which the area and other particulars are separately entered, under an indicative number in the survey-records of the village, town or city in which it is situated, and includes a recognized share of a survey-number:

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[1] Collection of Statutes relating to India, Ed. 1899, Vol. I, p. 841.

[2] As to the local modification of s. 3, cl. (*1*), *see* para. 4 of the third footnote on p. 631, *supra*.

[3] The words within square brackets were added by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[4] *Supra*, p. 521.

[5] *Supra* p. 936.

[6] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

(7) "recognized share of a survey-number" means a sub-division of a survey-number separately assessed and registered :

(8) "building-site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon :

(9) "boundary-mark" means any erection, whether of earth, stone or other material, and also any hedge, [unploughed ridge, or] strip of ground, or other object whether natural or artificial, set up, employed or specified by a Survey-officer, or other Revenue-officer having authority in that behalf, in order to designate the boundary of any division of land :

(10) "to hold land" means to be legally invested with a right to the possession and enjoyment or disposal of such land, either immediate or at the termination of tenancies legally subsisting :

(11) "holder" or "landholder" signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person, or for a class of persons, or for the public ; it includes a mortgagee vested with a right to possession :

(12) "holding" signifies land over which such right extends [2] :

(13) "superior holder" signifies a holder entitled to receive from other holders rent or land-revenue on account of lands held by them, whether he be accountable or not for the same, or any part thereof, to the Government :

(14) "inferior holder" signifies a holder liable to pay the rent or land-revenue to a superior holder, whether on account of such superior holder or Government :

(15) "tenant" signifies a person who holds by a right derived from a superior holder called his "landlord," or from his landlord's predecessor in title :

(16) "occupant" [3] signifies a holder of unalienated land, or, where there are more holders than one, the holder having the highest right in respect of any such land,

or where such highest right vests equally in more holders than one, any one of such holders :

(17) "registered occupant" [2] signifies a sole occupant or the eldest or principal of several joint occupants whose name is authorizedly entered in the Government records as holding unalienated land whether in person or by his co-occupant, tenant, agent, servant or other legal representative :

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[1] These words were substituted for the word "vacant" by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 2, Vol. IV of this Code.

[2] See also ss. 47 and 64 as to definition of "holding" for purposes of those sections, *infra*, pp. 648 and 653 respectivly.

[3] As to the local modification of the words "occupant" and "registered occupant," *see* para. 4 of the third footnote on p. 631, *supra*.

(18) "occupancy" [1] signifies the sum of the rights vested in an occupant as such :

(19) "alienated" means transferred in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially to the ownership of any person :

(20) the words "village, town or city" include all lands belonging to any village, town or city :

(21) the words "revenue-year" or "year" mean the period from, and exclusive of, the thirty-first July of one calendar year until, and inclusive of, the thirty-first July in the next calendar year.

(22) [*Definition of "section"*] *Rep. Bom. Act III of 1886, Schedule B*[2].

(23) [*Definition of "this chapter"*] *Rep. Bom. Act III of 1886, Schedule B*[2].

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE-OFFICERS.

Chief controlling authority in revenue-matters.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Commissioner, subject to the Governor in Council.

Extent of territories under Commissioners.

There shall be one or more [3] Commissioners as the Governor in Council, subject to the orders of the Government of India, may direct ; and the Governor in Council shall prescribe what territories are to be under the control of each, whether generally or for any specific purpose, and may from time to time alter the limits of such territories, all orders made on this behalf being duly [4] notified.

Division.

The territories under each Commissioner shall form, and be called, a division.

[5] * * * * * * * *

Appointments and duties of Commissioner.

5. The Commissioners shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith all such other powers or duties of appeal, superintendence and control within their respective divisions, and over the officers subordinate to them as may from time to time be prescribed by Government.

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[1] As to the local modification of the word "occupancy," *see* para. 4 of the third footnote on p. 631, *supra*.

[2] This schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] For notification sanctioning the appointment of these Commissioners and fixing the limits of their charges, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 537 and 538.

[4] For notification issued in conjunction with ss. 4 and 7, *see* Bombay Local Rules and Orders, 1898, Vol. II, p. lxxviii.

[5] The words "The present divisions shall continue as they are for the purposes of this Act, until altered by the Governor in Council", were repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

Assistants to Commissioners.

6. Each Commissioner shall have such number of assistants as the Governor in Council may from time to time sanction, their appointment being made by the Governor in Council. Assistants so appointed shall perform such duties as the Commissioners, to whom they are respectively subordinate, may from time to time direct.

Division to be divided into districts.

7. Each division, under the control of the Commissioner, shall be divided into such number of districts with such limits as may from time to time be [1] prescribed by a duly published order of the Governor in Council.

District: táluqá.

And each such district shall consist of such number of táluqás, and each táluqá shall consist of such number of mahál and villages, as may from time to time be [1] prescribed in a duly published order of the Governor in Council.

[2] * * * * * * * *

Collector of District.

8. The Governor in Council shall appoint in each district an officer who shall be the Collector [3] * * * and who shall be subordinate to the Commissioner of his division, and may exercise, throughout his district, all the powers and discharge all the duties, conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of Government.

Assistant and Deputy Collectors.

9. The Governor in Council may [4] appoint to each district so many Assistant Collectors and so many Deputy Collectors as he may deem expedient; the Assistants shall be called "First," "Second," "Supernumerary," etc., as may be expressed in the order of their appointment.

To be subordinate to Collector.

All such Assistant and Deputy Collectors and all other officers employed in the land-revenue-administration of the district shall be subordinate to the Collector.

Their duties and powers.

10. Subject to the general orders of Government, a Collector may place any of his assistants or deputies in charge of the revenue-administration of one or more of the táluqás in his district, or may himself retain charge thereof.

Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of Chapter XIII [5] * * *, perform all the duties and exercise all the powers conferred upon a Collector [6] * * * by this

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[1] For notifications *see* Bombay Local Rules and Orders, 1898, Vol. II, pp. lxxxiv to xciv. For those in conjunction with s. 4, see under that section and for those in conjunction with s. 14, under section 14.

[2] The words "The present zillas or collectorates shall form districts, and the present táluqás shall remain as they are, for the purposes of this Act, until altered by the Governor in Council" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "of the District" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[4] For notification appointing the Superintendent, Mahableshwar, to be a Deputy Collector, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 537.

[5] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[6] The words "of a district" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

Act or any other law at the time being in force, so far as regards the táluqá or táluqás in his charge:

Provided that the Collector may, whenever he may deem fit, direct any such assistant or deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other assistant or deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of táluqás the Collector shall, under the [1] general orders of Government, assign such particular duties and powers as he may from time to time see fit.

Collector of district in case of temporary vacancy.

11. If the Collector is disabled from performing his duties, or for any reason vacates his offices or leaves his district, or dies, his assistant of highest rank present in the district shall, unless other provision has been made by Government, succeed temporarily to his office, and shall be held to be the Collector [2]* * * under this Act until the Collector resumes charge of his district, or until the Governor in Council appoints a successor to the former Collector and such successor takes charge of his appointment.

An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only, shall not be deemed to be an Assistant for the purposes of this section.

Mámlatdár: his appointment;

12. The chief officer entrusted with the local revenue-administration of a táluqá shall be called a Mámlatdár. He shall be appointed by the Commissioner of the division in which his táluqá is situated.

his duties and powers.

His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon, or delegated to, him by the Collector under the general or special orders of Government. [3] * * * * * * * *

Mahálkari:

13. Whenever it may appear necessary to the Governor in Council, the Collector may appoint a Mahálkari to be in charge of a defined portion of a

his duties and powers.

táluqá; and, subject to the orders of Government and of the Commissioner, the Collector may assign to him within his local limits such of the duties

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[1] For notification declaring that certain Assistant and Deputy Collectors who had not passed the higher standard should not be appointed Deputy Collectors, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 537.

[2] The words "of the district" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "He shall continue to perform the duties and exercise the powers at present performed and exercised by him after the passing of this Act, until such time as he is otherwise directed by competent authority" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

and powers of a Mámlatdár as he may from time to time see fit, and may also from time to time direct whether the Mahalkári's immediate superior shall for the purposes of section 203 * *[1] be deemed to be the Mámlatdár or the Assistant or Deputy Collector, or the Collector in charge of the táluqá.

Mámlatdár or Mahálkari may depute subordinates to perform certain of his duties.

14. It shall be competent to a Mámlatdár or Mahálkari, subject to such general orders as may from time to time be passed by the Commissioner or by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties; provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mámlatdár or Mahálkari.

Mahál.

The portion of a táluqá in the charge of a Mahálkari shall be called a Mahál [2]* * * * * * * * * * * * *.

Mámlatdár or Mahálkari in case of temporary vacancy.

15. If a Mámlatdár or Mahálkari is disabled from performing his duties, or for any reason vacates his office, or leaves his táluqá or mahál, or dies, such subordinate as may be designated by orders to be issued from time to time on this behalf by the Collector shall succeed temporarily to the said Mámlatdár's or Mahálkari's office, and shall be held to be the Mámlatdár or Mahálkari under this Act until the Mámlatdár or Mahálkari resumes charge of his táluqá or mahál, or until such time as a successor is duly appointed and takes charge of his appointment.

Stipendiary patel and village-accountant where to be appointed.

16. In villages where no hereditary patel or village-accountant exists, it shall be lawful for the Collector, under the general orders of Government and of the Commissioner, to appoint a stipendiary patel or a village-accountant who shall perform respectively all the duties of hereditary patels or village-accountants as hereinafter prescribed in this Act or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate Revenue-officers.

Saving of rights of holders of alienated villages.

Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of patels and village-accountants in any alienated or other villages.

Village-accountant to keep records prescribed by Collector;

17. Subject to the general orders of Government and of the Commissioner, the Collector shall prescribe from time to time what registers, accounts and other records shall be kept by the village-accountant [3]* * * * * *

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "The present maháls shall remain as they are, for the purposes of this Act, until altered by the Governor in Council" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "and pending the first issue of orders under this section, the village-accountant shall continue to keep all such registers, accounts and other records as he may hitherto have been required to keep" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

and to prepare public writings.

It shall also be the duty of the village-accountant to prepare, whenever called upon by the patel of his village, or by any superior Revenue or Police officer of the táluqá or district to do so, all writings connected with the concerns of the village which are required either for the use of Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

Survey-officers:

18. For the purposes of Chapters VIII, IX and X * * * [1] the Governor in Council may [2] appoint such officers as may from time to time appear necessary. Such officers shall be designated "Commissioner of Survey", "Superintendent of Survey", "Survey-settlement-officers" and "Assistant" or otherwise as may seem requisite, and shall be subordinated the one to the other in such order as the Governor in Council may direct.

their duties and powers.

Subject to the orders of the Governor in Council, the officers so appointed are vested with the cognizance of all matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

Combination of offices.

19. It shall be lawful for the Governor in Council to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this Chapter, or to [3] confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Appointments to be notified.

20. The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified.

Acting appointments.

Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Establishments.

21. Subject to rules or orders made under section 214, the appointment of all members of the establishments of the undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, namely:—

the Commissioners,
„ Collectors,
„ Commissioner of Survey,
„ Superintendent of Survey,
„ Survey-settlement-officer.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] For notification appointing a Commissioner of Survey, *see* Bombay Local Rules and Orders, 1898, Vol. II, p. 537.

[3] For notification authorising the Mámlatdár of Poona City to exercise powers under ss. 86 and 87, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 537.

(*Chap. II.—Constitution and Powers of Revenue-officers. Sec. 22. Chap. III.—Of the Security to be furnished by certain Revenue-officers and the Liability of Principals and Sureties. Secs. 23-24.*)

The appointment of all members of the establishments of all other officers mentioned in the foregoing sections of this Chapter shall be made in their respective departments by the Collector and the Superintendent of Survey: provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments that may be made by such subordinate officers.

Seals.

22. The Governor in Council shall from time to time by notification prescribe what Revenue-officers shall use a seal, and what size and description of [1] seal shall be used by each of such officers.

[2] * * * * * * * * * * * * * * * * * *

CHAPTER III.

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE-OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

Government to direct what officers shall furnish security, and to what amount.

23. It shall be lawful for Government to direct that such Revenue-officers as it deems fit shall, previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government-paper duly endorsed, accompanied by a power to sell, or in the form contained in Schedule B. * * *[3]

The amount for which such security shall be furnished may be varied, from time to time, by order of Government, which shall also determine the number of sureties to be required when security is taken in the form of Schedule B.

Fresh or additional security.

24. The Collector or the Superintendent of Survey may, at any time after security has been given by a Revenue-officer subordinate to him, if it appear to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which larger security is required, or for other sufficient reason, demand fresh or additional security, and in case of the officer failing to give such security within one month after its being required of him may suspend or dismiss him:

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[1] As to seals to be used by Revenue-officers, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 537 and 538.

[2] The words "Pending the issue of the first orders under this section, the seals hitherto used shall continue to be used by such officers as have used them," were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Provided always that no greater security shall be demanded than is required by the orders of Government under the last preceding section.

Demands for money, papers, etc., to be made known in writing to person concerned;

25. The Collector or the Superintendent of Survey or any other officer deputed by the Collector or Superintendent of Survey for this purpose shall in all cases in which he may have a claim on any Revenue-officer or on any person formerly employed as such in his department or district for public money or papers or other Government-property, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or property detained, to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify.

who may be arrested and confined in jail if he fail to produce them.

If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property, as directed, he may cause him to be apprehended, and may send him with a warrant, in the form of Schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him:

Limit to confinement.

Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Public moneys may also be recovered as arrears of revenue;

26. The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey, if such officer or person is or was serving in the survey-department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of arrears of land-revenue from defaulters, and, for the purpose of recovering public papers or other property appertaining to Government, may issue a search-warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the [1]Code of Criminal Procedure (Act X of 1872).

and search-warrant issued for recovery of papers or property.

Persons in possession of public moneys, etc., bound to give them up.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

Surety liable in same manner as principal.

27. The surety or sureties of such officer or other person as is aforesaid, who may enter into a bond, in the form of Schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their

[1] *See* now the Criminal Procedure Code, 1898 (Act 5 of 1898), as modified up to 1st April, 1903.

principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against:

Extent of liability.

Provided always that in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security-bond executed by him or them.

Sureties not liable to imprisonment, if penalty paid.

And provided also that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government treasury the whole or such part of the penalty named in the bond as may be demanded.

Officer or surety in jail may, by furnishing security, obtain release.

28. If an officer or other person as aforesaid, or his surety or sureties, against whom a demand is made, shall give sufficient security in the form of Schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner.

Liability of surety not affected by death of principal or his taking different appointment.

29. The liability of the surety or sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 23 and until his bond is cancelled.

Liability of heirs of deceased officer.

The heirs of a deceased officer shall be liable by suit in the Civil Court for any claims which Government may have against the deceased, in the same way as they would be for similar claims made by an individual.

How surety may withdraw from further liability.

30. Any surety, whether under a separate or joint bond, may withdraw from his suretyship at any time on his stating in writing, to the officer to whom the bond has been given, that he desires so to withdraw, and his responsibility under the bond shall cease after sixty days from the date on which he gives such writing as to all demands upon his principal concerning moneys, papers or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER IV.

OF CERTAIN ACTS PROHIBITED TO REVENUE-OFFICERS, AND OF THEIR PUNISHMENT FOR MISCONDUCT.

Revenue-officers, without permission,

31. No Revenue-officer shall, except with the express permission of Government, or of the Collector, or Superintendent of Survey to whom he is subordinate,—

not to trade;

(1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever;

not to purchase at public sale;

(2) purchase or bid, either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any property which may, under the provisions of this Act or of any other law for the time being in force, be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed;

not to be concerned in revenue;

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed;

and no Revenue-officer shall—

not to make private use of public money or property;

(4) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

not to make or receive undue exactions or presents.

(5) demand or receive, under the colour or by the exercise of his authority as such Revenue-officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf, any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

Power of fining, reducing, suspending and dismissing in whom to vest.

32. Subject to rules or orders made under section 214, all Revenue-officers may be fined, reduced, suspended or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned

authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21:

Officer to be fined, etc., only by order of Government.

Provided that, excepting Mámlatdárs, no Revenue-officer, whose monthly salary exceeds rupees two hundred and fifty, shall be fined, suspended, reduced or dismissed except by order of the Governor in Council.

Orders to be made in writing.

33. When any Revenue-officer passes an order for fining, reducing, suspending or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the language of the district or in English.

Fine not to exceed two months' pay;

34. No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

how recovered.

All fines inflicted under this Chapter may be recovered from the officer's pay or, if necessary, may be realized in the same way as arrears of land-revenue are recoverable under this Act.

Appeals.

35. If the Collector or Superintendent of Survey, whether of his own motion or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending or dismissing any Revenue-officer subordinate to him whose monthly salary does not exceed thirty-five rupees, or

if any authority superior to the Collector or Superintendent of Survey pass any such order against a Revenue-officer whose monthly salary does not exceed ninety-nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty-five rupees.

And no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

Liability to criminal prosecution not affected.

36. Nothing in this Chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged.

Officer may be suspended during trial, and subsequently suspended, reduced or dismissed.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he have been found guilty or not.

CHAPTER V.

OF LAND AND LAND-REVENUE.

Land.

Public road, etc., and lands not property of others belong to Government.

37. All public roads, lanes and paths, the bridges, ditches, dikes and fences on, or beside, the same, the bed of the sea and of harbours and creeks below high-water mark and of rivers, streams, nalas, lakes and tanks and all canals and water-courses and all standing and flowing water, and all lands, wherever situated, which are not the property of individuals or of aggregates of persons legally capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government, and it shall be lawful for the Collector, subject to the orders of the Commissioner, to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by Government, subject always to the rights of way, and all other rights of the public or of individuals legally subsisting.

Explanation.—In this section "high-water mark" means the highest point reached by ordinary spring-tides at any season of the year.

Lands may be assigned for special public purposes, and

[1] **38.** Subject to the general orders of Government, it shall be lawful for Survey-officers whilst survey-operations are proceeding under Chapter VIII * * *[2], and at any other time for the [3][Collector], to set apart lands the property of Government and not in the lawful occupation of any person or aggregate of persons in unalienated villages or unalienated portions of villages, for free pasturage for the village-cattle, for forest-reserves, or for any other public or municipal purpose;

when assigned, not to be otherwise appropriated without sanction.

and lands assigned specially for any such purpose shall not be otherwise appropriated or assigned without the sanction of the [3][Collector]; and in the disposal of land under section 37 due regard shall be had to all such special assignments.

Regulation of use of pasturage.

[1] **39.** The right of grazing on free pasturage-lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, and shall be regulated by rules to be from time to time, either

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[1] As to the local repeal of ss. 38 and 39, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] Substituted for the word "Commissioner" by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

generally or in any particular instance prescribed by the Collector with the sanction of the Commissioner.

The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

Trees [etc.][1]

Concession of Government rights to trees in case of settlements completed prior to Act.

[2] **40.** In villages, or portions of villages, of which the original survey-settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any Survey-officer, whether by express order made at, or about, the time of such settlement, or under any rule or general order in force at the time of such settlement, or by notification made and published at, or any time after, such settlement, shall be deemed to have been conceded to the occupant.

But in the case of settlements completed before the passing of [3]Bombay Act I of 1865 this provision shall not apply to teak, blackwood or sandal-wood-trees. The right of Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect.

Concession in case of settlements completed after passing of Act.

In the case of villages or portions of villages of which the original survey-settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land, except in so far as any such rights may be reserved by Government, or by any Survey-officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey-settlement of the district in which such village or portion of a village is situate.

Concession in case of land taken up after completion of settlement.

When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey-settlement of the village or portion of a village in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land, which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or

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[1] Added by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[2] As to the local repeal of s. 40, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] The Bombay Survey and Settlement Act, 1865 (Bom. Act 1 of 1865), *supra*, p. 451 (except ss. 37 and 38), is repealed by s. 2 of this Act.

about the time of the original survey-settlement of the said village or portion of a village.

Government trees and forests.

41. The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brushwood, jungle or other natural product growing on land set apart for forest-reserves under section 32 of [1]Bombay Act I of 1865 or section 38 of this Act, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in Government; and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as Government may from time to time direct.

Road-side trees.

42. All road-side trees which have been planted and reared by, or under the orders of, or at the expense of, Government, or at the expense of local funds, vest in Government.

But in the event of such trees dying, or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the loppings of such trees, shall also vest in the said holder:

Provided that the trees shall not be lopped except under the orders of the Collector.

If the holder of any land in which such trees are growing shall so desire and shall make an application to the Collector for the purpose at any time within two years from the date on which this Act shall come into operation, the Collector shall deduct the strip of land covered by the said trees from his holding, and remit thenceforward the proportionate amount of land-revenue due upon the strip so deducted.

Any strip of land so deducted shall, with the trees upon it, vest thereafter in Government.

Recovery of value of trees, etc., unauthorizedly appropriated.

43. Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof or remove [2][from his holding] any other natural product [2][whether of the like description or not] which is the property of Government shall be liable to Government for the value thereof, which shall be recoverable from him as an arrear of land-revenue, in addition to any penalty to which he may be liable under the provisions of this Act for the occupation of the land or otherwise, and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property.

[1] The Bombay Survey and Settlement Act, 1865 (Bom. Act 1 of 1865), *supra*, p. 451 (except ss. 37 and 38), is repealed by s. 2 of this Act.

[2] The words within square brackets in s. 43 were inserted by the Bombay Repealing and Amending Act, 1905 (Bom. Act 1 of 1905), Vol. IV of this Code.

The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

Regulation of supply of firewood and timber for domestic or other purposes.

[1]**44.** In villages or lands in which the rights of Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or of certain classes or persons to cut firewood or timber for domestic or other purposes, and in lands which have been set apart under section 38 for forest-reserves subject to such privileges, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by [2] rules to be from time to time, either generally or in any particular instance, prescribed by the Collector or by such other officer as Government may direct.

In any case of dispute as to the mode or time of exercising any such privileges the decision of the Collector or of such other officer shall be conclusive.

Land-revenue.

All land liable to pay revenue unless specially exempted.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land-revenue to Government according to the rules hereinafter enacted, except such as may be wholly exempted under the provisions of any special contract with Government or any law for the time being in force.

Saving of right to levy revenue.

But nothing in this Act shall be deemed to affect the power of the legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

Liability of alluvial lands to land revenue.

[3]**46.** All alluvial lands, newly-formed islands or abandoned river-beds which vest, under any law for the time being in force in any holder of alienated land, shall be subject in respect of liability to the payment of land-revenue to the same privileges, condtiions or restrictions as are applicable to the original holding in virtue of which such lands, islands or river-beds so vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands or river beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

Right to remission in cases of diluvior.

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Governor in Council, to a decrease of assessment if any portion thereof, not

[1] As to the local repeal of s. 44, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] For rules as to cutting firewood, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898 pp. 200, 209, 210 and 211.

[3] As to the local modification of s. 46, *see* para. 4 of the third foot-note on p. 631, *supra*.

being less than half an acre in extent, nor less than one-tenth of the holding, is lost by diluvion.

"Holding" defined.

The word[1] "holding" in this section shall be deemed to mean a survey-number of any division of land on which a distinct or aggregate assessment has been fixed.

Lands chargeable with land-revenue.

48. The land-revenue leviable under the provisions of this Act shall be chargeable—

(*a*) upon land appropriated for purpose of agriculture;

(*b*) upon land [2][appropriated for any purpose] from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c*) upon land appropriated for building-sites.

Assessment variable if purpose for which land is held is changed.

[3][And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall, when such land is appropriated for any other of the said purposes, notwithstanding that the term, if any, for which such assessment was fixed may not have expired, be liable to be altered and fixed at a different rate by such authority and subject to such rules as to the fixing and periodical revision thereof as the Governor in Council prescribes in this behalf.]

Land held rent-free for one purpose assessable if used for another.

And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose.

Appropriation of land to certain purposes may be prohibited.

It shall also be lawful for the Collector or for a Survey-officer, subject to rules or orders made in this behalf under section 214, to prohibit the appropriation of any unalienated land liable to the payment of land-revenue for certain purposes, and to summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes.

Land indirectly taxed to State, or

49. When it has been customary to levy any special or extra cess, fine or tax, however designated, from any holder of land, which, though nominally

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[1] As to definition for the purposes of the Act generally, see s. 3(*10*), p. 633, *supra*.

[2] These words were inserted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 3 (*1*), Vol. IV of this Code.

[3] This para. was substituted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 3 (*2*), Vol. IV of this Code.
The original paragraph was as follows:—

"And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired. And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose."

wholly or partially exempt from the payment of land-revenue, has by the exaction of such cess, fine or tax been indirectly taxed to the State,

land liable to occasional assessment;

or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated,

liable to commuted assessment.

the said assessment, cess, fine or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be fair equivalent of the assessment, cess, fine or tax for which it is substituted, and shall not be in excess of the assessment to which the land would be ordinarily subject if no right to exemption existed in respect thereof.

Superior holder may recover commuted assessment from inferior holder.

50. Whenever any such cess, fine or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Excess of assessment may be laid on land inadequately assessed held with it.

51. When it has been customary to levy a larger revenue, under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

Assessment by whom to be fixed.

[1]**52.** On all lands which are not wholly exempt from the payment of land-revenue, [2][and] on which the assessment has not been fixed under the provisions of section 102 or 106, the assessment of the amount to be paid as land-revenue shall, subject to rules or orders made in this behalf under section 214, be fixed at the discretion of the Collector, for such period as he may, by general or special orders of Government in this behalf, be authorized to

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[1] This section was substituted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), Vol. IV of this Code.

The original section was as follows :—

"On all lands not wholly exempt from payment of land-revenue, and not within the local operation of an order made under section 95, the assessment of the amount to be paid as land-revenue shall be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, and the amounts due according to such assessment shall be levied on all such lands :

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land-revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights."

[2] Substituted for the word "or" by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

prescribe, and the amounts due according to such assessment shall be levied on all such lands :

Proviso.

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land-revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.[1]

Register of alienated lands.

53. A register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands the alienation of which has been established or recognized under the provisions of any law for the time being in force ; and, when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated land has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said register, which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

Settlement of assessment with whom to be made ;

[2]**54.** The settlement of the assessment of each portion of land, or survey-number, to the land-revenue, shall be made with the person who, under section 136, is primarily responsible to Government for the same.

when to be made with under-holder.

If the said person be absent, and have left no known authorized agent in the district, so that the settlement of the assessment cannot be concluded with him, such settlement may be made with the person holding under him, or in occupation of the land.

Rates for use of water.

55. The Governor in Council may authorize the Collector or the officer in charge of a survey, or such other officer as he deems fit, to fix such [3] rates as he may from time to time deem fit to sanction for the use, by landholders and other persons, of water the right to which vests in Government, [4][and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879]. Bom. VII of 1879.

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[1] The validity of past assessments purporting to have been fixed under s. 52 is saved by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 5, Vol. IV of this Code.

[2] As to the local modification of s. 54, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] For notifications issued under section 55 for Sindh and the rest of the Presidency, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 539.

[4] These words and figures were substituted for the words " or which has been made available in consequence of the construction, improvement, or repair of any irrigational or other work by or at the instance of Government" by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

Such rates shall be liable to revision at such periods as Government shall from time to time determine, and shall be recoverable as land-revenue.

Land-revenue a paramount charge on land.

56. Arrears of land-revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the [1] occupancy or alienated holding, together with all rights of the [1] occupant or holder over all trees, crops, buildings and things attached to the land or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrear by sale of the [1] occupancy or alienated holding, [2]* * * * * * * * or may otherwise dispose of such [1] occupancy or alienated holding under rules or orders made in this behalf under section 214, [3][and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another person or otherwise howsoever, shall, unless the Collector otherwise directs, be deemed to be freed from all tenures, rights, incumbrances and equities theretofore created in favour of any person other than Government in respect of such occupancy or holding.]

Forfeited holding may be taken possession of and otherwise disposed of.

57. It shall be lawful for the Collector, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of the land embraced within such holding, and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

Receipts to be granted by Revenue-officers; and by superior holders.

58. Every Revenue-officer receiving a payment of land-revenue shall give a written receipt for the same.

And every superior holder of an alienated village, or of an alienated share of a village, shall give a written receipt for every payment of rent or land-revenue made to him by an inferior holder,[4] [and every such receipt shall be countersigned by the village accountant, if there be any.]

Penalty for failure to grant receipts.

59. Any person convicted of a breach of the provisions of the last preceding section after summary inquiry before the Collector shall be liable to a

[1] As to the local modification of the words "occupancy" and "occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] The words "freed from all tenures, incumbrances and rights created by the occupant or holder or any of his predecessors in title, or in any wise subsisting as against such occupant, or holder" were repealed by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 6, Vol. IV of this Code.

[3] These words were added to s. 56 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 6, Vol IV of this Code.

[4] The last fifteen words of s. 58 have been declared not to be in force in the Panch Mahals—*see* the Panch Mahals Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code, p. 214.

fine not exceeding three times the amount received for which a receipt was not duly granted, and one-half of the fine may, at the discretion of the Collector, be paid to the informer, if any. Such inquiry may at any time be instituted by the Collector of his own motion, without any complaint being preferred to him.

CHAPTER VI.

OF THE OCCUPATION OF UNALIENATED LAND AND THE RIGHTS OF OCCUPANTS.

Occupation.

Permission required previous to taking up unoccupied land.

[1]60. Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Mámlatdár or Mahálkari.

Penalties for unauthorized occupation of land.

[1]61. Any person who shall unauthorizedly occupy any land set apart for any special purpose, or any unoccupied land which has not been alienated, shall,

if the land which he unauthorizedly occupies forms part of an assessed survey-number, pay the assessment of the entire number for the whole period of his occupation, and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land appropriated to the same purpose;

and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules or orders made in this behalf under section 214, if he have appropriated it to any non-agricultural purpose.

The Collector's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be conclusive, and in determining its amount occupation for [2][a portion] of a year shall be counted as for a whole year.

The person unauthorizedly occupying any such land may be summarily evicted by the Collector, and any crop [3] * * * raised on the land shall be liable to forfeiture, and any building or other construction [3] * * * erected thereon

[1] As to the local repeal of ss. 60 and 61, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] These words were substituted for the words "an incomplete portion" by the Repealing and Amending Act, 1895 (16 of 1895), Vol I of this Code, p. 223.

[3] The words "he may have" were repealed by the Bombay Land-revenue Code Amendment Act 1901 (Bom. Act 6 of 1901), s. 7, Vol. IV of this Code.

shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture.

Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct.

Occupancy-right to be paid for and liable to conditions.

[1] **62.** It shall be competent to the Collector, subject to such orders as may from time to time be made by the Governor in Council, to require the payment of a certain price, for the occupancy, or to sell that right by auction, and to annex such conditions to the occupancy as may seem fit, before permission to occupy is granted under section 60.

Price to include price of trees.

The price of an occupancy shall include the price of the Government right to all trees not specially reserved under the provisions of section 40, and shall be recoverable as an arrear of land-revenue.

Occupancy of alluvial land which vests in Government.

[1] **63.** When it appears to the Collector that the occupancy of any alluvial land which vests, under any law for the time being in force, in Government, may, with due regard to the interests of the public revenue, be disposed of in perpetuity, he shall offer the prior right of occupancy thereof to the occupant, if any, of the bank or shore on which such alluvial land has formed.

The price of an occupancy so offered shall not exceed three times the annual assessment of the land of which the occupancy is offered.

If the said occupant shall refuse such occupancy, the Collector may dispose of the same under the last preceding section without any restrictions as to the price thereof.

Temporary right to alluvial lands of small extent.

[1] **64.** When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use and occupation thereof, unless or until the area of the same exceeds half an acre, and also exceeds one-tenth of the area of his holding. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector, subject to the provisions of the last preceding section.

"Holding" defined.

The word [2] "holding" in this section shall be deemed to mean a survey-number, or any division of land on which a distinct or aggregate assessment has been fixed.

Occupants' Rights.

Uses to which occupant of land for

[1] **65.** An occupant of land appropriated for purposes of agriculture is entitled by himself, his servants, tenants, agents or other legal representa-

[1] As to the local repeal of ss. 62 to 65, *see* para. 4 of the third foot-note on p. 631, *supra*.
[2] As to definition for purposes of the Act generally, *see* s. 3 (*10*), p. 633, *supra*.

purposes of agriculture may put his land.

tives, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land, or its more convenient occupation for the purposes aforesaid.

Procedure if occupant wishes to apply land to other purpose.

But, if any occupant wishes to appropriate his holding or any part thereof to any other purpose, the Collector's permission shall in the first place be applied for by the registered occupant.

The Collector on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after inquiry may either grant or refuse the same; but, if the applicant receive no answer within three months from the date of the said acknowledgment, the Collector's permission may be deemed to have been granted.

Unless the Collector shall in particular instances otherwise direct, no such application shall be recognized except it be made by the registered occupant.

Power to require fine in addition to special assessment.

When any such land is thus appropriated to any purpose unconnected with agriculture, it shall be lawful for the Collector, subject to the general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48.

Penalty for so appropriating land without permission.

[1] 66. If any such land be so appropriated without the permission of the Collector being first obtained, or before the expiry of three months from the date of the aforesaid acknowledgment, the occupant and any tenant, or other person holding under or through him, shall be liable to be summarily evicted by the Collector from the land so appropriated, and from the entire field or survey-number of which it may form a part, and the registered occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so appropriated, such fine as the Collector may, subject to the general orders of Government, direct.

Co-occupant or tenant responsible to registered occupant in damages.

Any co-occupant or any tenant of any occupant or any other person holding under or through an occupant, who shall, without the registered occupant's consent, appropriate any such land to any such purpose, and thereby render the said registered occupant liable to the penalties aforesaid, shall be responsible to the said registered occupant in damages.

Permission may be granted on terms.

[1] 67. Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid in special cases on such terms [2] [or

[1] As to the local repeal of ss. 66 and 67, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] These words were inserted in s. 67 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 8 (*1*), Vol. IV of this Code.

conditions] as may be agreed on between Government and the registered occupant.

Occupant's rights conditional.

[1] **68.** An [2] occupant is entitled to the use and occupation of his land for the period, if any, to which his [2] occupancy is limited, or if the period is unlimited, or a survey-settlement has been extended to the land in perpetuity, conditionally on the payment of the amounts due on account of the land-revenue for the same, according to the provisions of this Act or of any rules made under this Act, or of any other law for the time being in force, and on the fulfilment of any other terms [3][or conditions] lawfully annexed to his occupancy ;

Proviso.

[4] [Provided that nothing in this or any other section shall make it, or shall be deemed ever to have made it, unlawful for the Collector at any time to grant permission to any person to occupy any unalienated unoccupied land, for such period and on such conditions as he may, subject to the orders of Government, prescribe, and in any such case the occupancy shall, whether a survey settlement has been extended to the land or not, be held only for the period and subject to the conditions so prescribed.]

Reservation of Government-right to mines.

69. The right of Government to mines and mineral-products in all unalienated land is and is hereby declared to be expressly reserved :

Proviso.

Provided that nothing in this section shall be deemed to affect any subsisting rights of any [2] occupant of such land in respect of such mines or mineral-products.

Decree or order of competent Court to be given effect to.

70. If by a decree or order of a competent Court it shall be adjudged that the [2] occupant is an inferior holder under another person, or that the [2]occupancy is vested in another person, or if, in the execution of such a decree or order, the interest of the [2] occupant in the land have been transferred by sale or otherwise to another person, such other person shall, on producing a certified copy of the decree or order, or the Court's certificate of the sale or other transfer, be deemed to be the [2] occupant and be dealt with accordingly, and, on written application being made to the Collector for the purpose, such change shall be made in the entry of the registered [2]occupant's name as the circumstances require :

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[1] As to the local repeal of s. 68, *see* para. 3 of the third foot-note on p. 631, *supra*.

[2] As to the local modification of the words " occupant ", " occupancy " and " registered occupant ", *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] These words were inserted in s. 68 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 8 (*1*), Vol. IV of this Code.

[4] The proviso to s. 68 was added by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 8 (*2*), Vol. IV of this Code.

Proviso.

[1] Provided that in any case where the occupancy or interest of the occupant in the land is not transferable without the previous sanction of the Collector, and such sanction has not been granted to the transfer which has been made or ordered by the Court or on which the Court's decree or order is founded,

(*a*) such occupancy or interest shall not be liable to the process of any Court, and such transfer shall be null and void, and

(*b*) the Court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy or interest is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such occupancy or interest in the land.

Name of heir to be registered when registered occupant dies.

71. On the death of a [2] registered occupant the Collector shall cause the name of his eldest son, or other person appearing to be his heir, or the principal of his heirs, to be registered in his stead, and the said heir shall thereafter be deemed the [2] registered occupant and, subject to the provisions of the last preceding section, shall be dealt with accordingly.

When entry to be amended.

But, if at any time any person shall, by production of a certificate of heirship or of a decree or order of a competent Court, satisfy the Collector that he is entitled to be the [2] registered occupant in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the Government records to be amended accordingly.

Intestate occupancy or holding to be sold.

[3] **72.** If an [2] occupant who is either a Hindu, a Muhammadan or a Buddhist, dies intestate and without known heirs, the Collector shall dispose of his [2] occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land-revenue, and the law at the time in force concerning property left by Hindus, Muhammadans or Buddhists, dying intestate and without known heirs, shall not be deemed to apply to the said [2] occupancy but only to the proceeds of such sale after deducting all arrears of land-revenue due by the deceased to Government and all expenses of the said sale.

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[1] The proviso to s. 70 was added by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s 9, Vol. IV of this Code.

[2] As to the local modification of the words "occupant", "occupancy" and registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] As to the local repeal of s. 72, *see* para. 3 of the third foot-note on p. 631, *supra*.

Right of occupancy to be transferable and heritable.

[1] [2] **73.** The right of [3] occupancy shall, subject to the provisions contained in section 56, and to any conditions lawfully annexed to the [3] occupancy, and save as otherwise prescribed by law, be deemed an heritable and transferable property.

Power to restrict right of transfer.

[4] **73A.** (*1*) Notwithstanding anything in the foregoing section, in any tract or village to which Government may, by Notification published before the introduction therein of an original survey-settlement under section 103, [5] declare the provisions of this section applicable, the [3] occupancy or interest of the [3] occupant in the land shall not after the date of such Notification be transferable without the previous sanction of the Collector.

(*2*) Government may, by Notification in the *Bombay Government Gazette*, from time to time exempt any part of such tract or village or any person or class of persons from the operation of this section.

Relinquishment of Occupancy.[3]

Occupant may relinquish occupancy.

[1] **74.** An [3] occupant may, by giving written notice to the Mámlatdár or Mahálkari, relinquish his [3] occupancy either absolutely or in favour of a specified person : provided that such relinquishment apply to the entire [3] occupancy or to whole survey-numbers, or recognized shares of survey-numbers.

An absolute relinquishment shall be deemed to have effect from the close of the current year, and notice thereof must be given before the thirty-first March in such year, or before such other date as may be from time to time prescribed in this behalf for each district by the Governor in Council.

A relinquishment in favour of a specified person may be made at any time.

When there are more [3] occupants than one, the notice of relinquishment must be given by the [3] registered occupant; and the person, if any, in whose favour an [3] occupancy is relinquished, or if such [3] occupancy is relinquished

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[1] As to the local repeal of ss. 73 and 74, *see* para. 3 of third foot-note on p. 631, *supra*.

[2] This section was substituted by the Bombay Land-revenue Act Amendment Act, 1901 (Bom. Act 6 of 1901) s. 10, Vol. IV of this Code.

The original section was as follows :—

"The right of occupancy shall be deemed an heritable and transferable property subject to the provisions contained in section 56 or otherwise prescribed by law, and shall immediately pass to the person whose agreement to become occupant shall have been accepted by the Collector."

[3] As to the local modification of the words "occupant", "occupancy" and "registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] S. 73A was inserted by the Bombay Land-revenue Act Amendment Act, 1901 (Bom. Act 6 of 1901), s. 11, Vol. IV of this Code

[5] For notifications declaring the section applicable to certain villages, *see* Bombay Government Gazette 1902, pp. 298 and 1333.

in favour of more persons than one, the principal of such persons must enter into a written agreement to become the [1] registered occupant, and his name shall thereupon be substituted in the records for that of the previous registered [1] occupant.

Relinquishment of lands paying lump-assessment.

75. When a lump-assessment is fixed upon several fields or survey-numbers in the aggregate, it shall not be lawful for the [1] occupant to relinquish as aforesaid any one or more of such fields or survey-numbers except with the previous consent of the Collector.

It shall be competent to the Collector to grant or refuse his consent ; if he grants it, the [1] occupancy shall be divided, and the Collector shall determine the proportional amount of land-revenue to be paid by each portion of it ; and the original [1] occupant, and the person, if any, in whose favour he relinquishes a portion of his [1] occupancy, shall be held liable for the revenue severally assessed on their portions.

Application of sections 74 and 75.

[2] **76.** The provisions of the two last sections shall apply, as far as may be, to the holders of alienated land : Provided that—

Relinquishment of land described in paragraph 1 of section 49.

(*a*) it shall not be lawful to relinquish, as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49, until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section ; and that,

Relinquishment of land described in section 51.

(*b*) if any person relinquish land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.

Right of way to relinquished land.

77. If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Sections 75 and 76 not to affect—

78. Nothing in sections 75 and 76 shall affect—

responsibility of share in certain village ;

(*a*) the responsibility of any share in a village for the land-revenue of which the sharers are all, according to law or the custom of the village, jointly responsible, or

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[1] As to the local modification of the words "occupant," "occupancy", and "registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] As to the local repeal of s. 76, *see* para. 4 of the third foot-note on p. 631, *supra*.

(*b*) the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government. — validity of lease from Government.

79. The registered [1] occupant or the holder of alienated land shall continue liable for the land-revenue due on the [1] occupancy or alienated holding and for all other lawful demands of Government in respect of the same, until such time as the [1] occupancy or alienated holding is relinquished or transferred, under any of the provisions of this Act, to the name of any other person; and the Collector shall not be bound in any case to recognize any person to whom any interest in any portion of an [1] occupancy or alienated holding has been assigned, unless the transfer has been recorded in the revenue-records in accordance with the foregoing provisions. — Occupant to continue liable for demands until occupancy relinquished.

[2] **79A.** Any person unauthorizedly occupying, or wrongfully in possession of, any land— — Summary eviction of person unauthorizedly occupying land.

(*a*) to the use and occupation of which he has ceased to be entitled under any of the provisions of this Act, or;

(*b*) of which the occupancy right is not transferable without previous sanction under section 73A or by virtue of any condition lawfully annexed to the occupancy under the provisions of section 62, 67 or 68,

may be summarily evicted by the Collector.

Remedies against Forfeiture of Occupancies.

80. In order to prevent the forfeiture of an [1] occupancy under the provisions of section 56 or of any other law for the time being in force, through non-payment by the [1] registered occupant of the land-revenue due on account thereof, it shall be lawful for any co-occupant, tenant, mortgagee or other person interested in the continuance of the [1] occupancy to pay on behalf of such [1] registered occupant all sums due on account of land-revenue, and [3] [the Collector shall on due tender thereof] receive the same. — Right of person other than occupant to pay land-revenue to prevent forfeiture.

And in any such case the Collector may give to the person who has paid the land-revenue as aforesaid such aid for the recovery of the proportional amounts which he may consider to be properly payable by other persons in — Collector may assist such persons in recovering the revenue from

[1] As to the local modification of the words "occupant", "occupancy" and "registered occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] Section 79A was inserted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 12, Vol. IV of this Code.

[3] Substituted for the words "for the Collector to" by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

other parties liable therefor.

occupation of parts of a field or survey-number as he might legally have given had the persons so paying been the [1] registered occupants.

Proviso.

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

When Collector may make co-occupant the registered occupant, instead of selling occupancy to realize land-revenue.

81. If it shall appear to the Collector that a registered [1] occupant has failed to pay land-revenue, and has thus incurred forfeiture with a view to injure or defraud his co-occupants or other persons interested in the continuance of the [1] occupancy or that a sale [2] [or other disposal] of the [1] occupancy will operate unfairly to the prejudice of such co-occupants or other persons, it shall be lawful for him, instead of selling [2] [or otherwise disposing of] the [1] occupancy to forfeit only the said registered occupant's interest in the same and to substitute the name of any such co-occupant or other person as [1] registered occupant thereof in the revenue-records, on his payment of all sums due on account of land-revenue for the [1] occupancy; and such person so becoming the registered [1] occupant shall have the rights and remedies with respect to all other persons in occupation provided for by section 86.

Suspension of certain Provisions of this Chapter.

Power to suspend operation of section 60 or 74.

[3] **82.** It shall be lawful for the Governor in Council, by notification in the *Bombay Government Gazette*, from time to time,—

(*a*) to suspend the operation of section 60 or 74, or of both, within any prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and

(*b*) to cancel any such notification.

During the period for which any notification under the above clause (*a*) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

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[1] As to the local modification of the words "occupancy" and "registered occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] These words were inserted in s. 81, by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 13, Vol. IV of this Code.

[3] As to the local repeal of s. 82, *see* para. 4 of third foot-note on p. 631, *supra*.

CHAPTER VII.

OF SUPERIOR AND INFERIOR HOLDERS.

Tenants' Rights.

Amount of rent payable by tenant.

83. A person placed, as tenant, in possession of land by another, or in that capacity, holding, taking or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services agreed upon between them; or in the absence of satisfactory evidence of such agreement, at the rent payable or services renderable by the usage of the locality, or, if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all of the circumstances of the case, shall be just and reasonable.

Duration of tenancy.

And where, by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant or those under whom they respectively claim title, or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

Presumption as to tenure.

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, received, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Saving clause.

Nothing contained in this section shall affect the right of the landlord (if he have the same either by virtue of agreement, usage or otherwise) to enhance the rent payable, or services renderable, by the tenant, or to evict the tenant for non-payment of the rent or non-rendition of the services, either respectively orginally fixed or duly enhanced as aforesaid.

Termination of annual tenancy.

84. An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the thirty-first March.

Notice of termination of tenancy to be given by landlord to tenant or *vice versa*.

An annual tenancy shall require for its termination a notice given in writing by the landlord to the tenant or by the tenant to the landlord, at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of Schedule E or to the like effect.

Superior holders' dues by whom

[1] **85.** It shall be incumbent on every superior holder of an alienated village, and on every superior holder of an alienated share of a village in which there

[1] S. 85 has been declared not to be in force in the Panch Mahals—*see* Article 7 of 1885, s. 2, Vol. I of this Code, p. 214. As to the local repeal of the section, *see* para. 4 of the third foot-note on p. 631, *supra*.

to be collected.

exists an hereditary patel and village-accountant, to receive his dues on account of rent or land-revenue from the inferior holders through the said village-officers.

Any such superior holder demanding or receiving payment from any inferior holder of any rent or land-revenue otherwise than through the said village-officers shall, on conviction in a summary inquiry before the Collector, forfeit to Government three times the amount of the sum so demanded or received.

Every such hereditary patel or accountant shall be bound to receive and account to the said superior holder for all sums paid to or recovered by him, on account of the said superior holder, and, on his or their failure to do the same, the superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

Recovery of Superior Holders' Dues.

Superior holders entitled to assistance in recovery of dues from inferior holders, etc.

86. Superior holders shall upon written application to the Collector, be entitled to assistance, by the use of precautionary and other measures, for the recovery of rent or land-revenue payable to them by inferior holders, or by co-sharers in their holdings, under the same rules, except that contained in section 137, and in the same manner, as prescribed in Chapter XI * * *[1] for the realization of land-revenue by Government:

Application for assistance when to be made.

Provided that such application be made within the revenue-year or within the year of tenancy in which the said rent or land-revenue became payable.

Collector how to proceed on such application.

[2]**87.** On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for inquiry into the case.

On the day so fixed he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land-revenue as appears to him upon the evidence before him to be lawfully due.

Assistance may be refused or granted in part.

But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates has been assessed under the provisions of Chapter VIII * * *[1] or any survey-

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 13 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol IV of this Code.

[2] But *cf.* s. 12 of the Bombay Record of Rights Act, 1903 (Bom. Act 4 of 1903), Vol. IV of this Code.

settlement confirmed by section 112, grant assistance to the extent only of the assessment so fixed upon the said land.

Civil suit not barred.

Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due as the case may be.

Governor in Council may, by commission, confer on holders of alienated lands power—

[1]88. It shall be lawful for the Governor in Council at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the lands specified in such commission (namely) :—

to demand security for land-revenue;

(*a*) to demand security for the payment of the land-revenue or rent due to him, and, if the same be not furnished, to take such precautions as the Collector is authorized to take under sections 141 to 143 ;

to attach defaulter's property;

(*b*) to attach the property of persons making default in the payment of such land-revenue or rent, as aforesaid ;

to fix time at, and instalments in, which revenue due shall be paid;

(*c*) to fix from time to time the times at which, and the instalments in which, the land-revenue or rent due to him shall be payable ;

to exercise Collector's powers;

(*d*) to exercise the powers of a Collector under sections 65 and 66 ;

to receive notices of relinquishment;

(*e*) to receive notices of relinquishment under section 74, and to determine the date up to which such notices shall be received as in that section provided ;

to arrange for repair of boundary-marks.

(*f*) to take measures for the maintenance and repair of boundary-marks in the manner provided for Survey-officers in section 122 :

Proviso.

Provided that the powers contemplated in clauses (*c*) to (*f*) shall be conferred only on holders of lands to which a survey-settlement has been extended under the provisions of section 216.

Form of such commission.

[1]89. Every such commission shall be in the form of Schedule F, and shall be liable to be withdrawn at the pleasure of Government, and a commission may, if the Governor in Council see fit, be issued to one or more agents of a holder of alienated lands as well as to the holder in person.

Reference to be made by holder of commission to Collector.

90. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Collector of his having done so. Should the demand on account of which the attachment has been made appear to the Collector, after such inquiry as he may deem fit to make, to be just, he

[1] As to the local modification of ss. 88 and 89, *see* para. 4 of third foot-note on p. 1631, *supra*.

shall give orders for the sale of the property, and the sale shall be conducted agreeably to the provisions of sections 165 to 186.

But if the holder of the commission is invested, under [1]Regulation XIII of 1830, with civil jurisdiction and with power to execute his own or his agent's decrees the sale shall be conducted by him and not by the Collector and his subordinates.

When compulsory process shall cease.

91. All compulsory process shall cease—

on the defaulter's paying or tendering the amount demanded of him under protest, or

on his furnishing, either to the holder of the commission or his agent or agents, or to the Collector, satisfactory security in the form of Schedule D, or to similar effect.

Penalty for continuing compulsory process.

And any holder of any such commission as aforesaid, by himself or his agents, proceeding with any compulsory process after payment made or tendered as aforesaid, or after the furnishing of such security as aforesaid, or after tender thereof, shall be liable, on conviction in a summary inquiry before the Collector, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

Arrears to which power under commission to extend.

92. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current year and of the year next immediately preceding, but not to that of former years.

Holder of commission not to enforce unusual or excessive demand.

93. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid previously to the date of such demand, or of what he may have contracted in writing to pay.

In the event of a dispute the Collector shall hold a summary inquiry and decide what is just, and the holder of a commission shall not enforce a demand for more than what is so decided to be just.

Penalty for so doing.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable shall be entitled to recover, on conviction of the holder of the commission in a summary inquiry before the Collector, three times the amount of any such excessive demand by way of damages, and the sum so due by the holder of the commission shall be leviable from him as an arrear of land-revenue.

Holder of commission may establish right to

[2]**94.** Nothing in the last section shall be deemed to prevent a holder of alienated land from instituting a suit in any Court of competent jurisdiction for the purpose of establishing his claim to re-assess the lands or re-settle the

[1] Vol. I of this Code, p. 39 .

[2] As to the local modification of s. 94, *see* para. 4 of the third foot-note on p. 631, *supra*.

revenue of any inferior holder paying less than the full sum to payment of which he deems him to be justly liable, or from levying the sum ascertained to be due in accordance with the decree in any such suit in the manner herein before mentioned. enhanced rent in Civil Court.

CHAPTER VIII.

Of Survey-settlements and the Partition of Estates.

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land-revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue-survey. Power to introduce revenue-survey into any part of Presidency.

Such survey may extend to the lands of any village, town or city generally, or to such land only as the Governor in Council may [1] direct, and, subject to the orders of the Governor in Council, it shall be lawful for the officers conducting any such survey to except from the survey-settlement any land to which it may not seem expedient that such settlement should be applied.

The control of every such revenue-survey shall vest in, and be exercised by, the Governor in Council. Control of revenue-survey.

96. It shall be lawful for the Survey-officer deputed to conduct or take part in any such survey to require, by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person or by legally constituted agent duly instructed and able to answer all material questions, and the presence of táluqá and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the survey and such service in connection therewith as may not be inconsistent with the position of the individual so called on. Survey-officer may require, by general notice or by summons, suitable service from holders of land, etc.

97. It shall be lawful for the survey-officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and, in the event of a necessity for employing hired labour for this or other similar object incidental to survey-operations, it shall be lawful to assess the cost thereof, with all contingent expenses, on the lands surveyed, for collection as a revenue-demand. Assistance to be given by holders and others in measurement, or classification of lands.

[1] For notification as to the extension of the Revenue survey to certain villages and the survey of certain settlement works, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 540.

Survey-numbers not to be of less extent than minimum fixed.

98. Except as hereinafter provided, no survey-number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be [1]fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government.

A record of the minima so fixed shall be kept in the Mámlatdár's office in each táluqá, and shall be open to the inspection of the public at reasonable times.

Exception.

These provisions shall not apply to survey-numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in any particular instance in this behalf; and any survey-number separately recognized in the survey-records shall be deemed to have been authorizedly made, whatever be its extent.

Provisions applicable to recognized shares of survey-numbers.

99. Recognized shares of survey-numbers shall be subject to the same provisions of this Act as are applicable to entire survey-numbers except—

(*a*) that it shall not be obligatory to demarcate such shares separately, and

(*b*) that if any such share is relinquished by the [3] occupant absolutely under the provisions of section 74, the [3] occupancy thereof shall be offered to the [3] occupants of the other shares of the same survey-number in order of [4][the] relative largeness of the amounts payable by them respectively on account of the assessment of their said shares, and that, in the event of their all refusing the [3] occupancy of the said share, the assessment thereon shall, until such time as the entire number is relinquished by them, be levied from them in proportion to the amounts of assessment payable by them as aforesaid.

Officer in charge of survey to fix assessment.

100. Subject to rules or orders made in this behalf, under section 214, the officer in charge of a survey shall have authority to fix the assessment for land-revenue at his discretion on all lands within the local operation of an order made under section 95, not wholly exempt from land-revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands.

[1] For notifications fixing scales for the regulation of sub-divisions of survey-numbers, *see* Bombay Local Rules and Orders, Ed. 1898, pp. 540–542.

[2] As to local repeal of s. 99, cl. (*b*), *see* para. 3 of third foot-note on p. 631, *supra*.

[3] As to the local modification of the words "occupant" and "occupancy" *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] "The" was substituted for "their" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

In fixing such assessment, regard shall be had to the requirements of the proviso to section 52 : Regard to be had to proviso to section 52.

But nothing in this section shall be deemed to prevent the Survey-officer aforesaid from determining and registering the proper full asesssment on lands wholly exempt from payment of land-revenue or on lands especially excepted under section 95 from the survey-settlement, or from dividing all such lands to which the survey extends into survey-numbers. Proviso

101. The power to assess under the preceding section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is [1][levied] under section 55 [2][or under the Bombay Irrigation Act, 1879] or in any other manner whatsoever that may be sanctioned by Government. Assessment may be on land, or on means of irrigation, etc.

Bom. VII of 1879.

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands. Assessments not leviable without sanction of Government. But may be fixed, with or without modification, for term of years.

[3]103. When in the case of lands used for the purposes of agriculture alone, Government shall have sanctioned the assessments fixed by the officer in charge of the survey, it shall be the duty of the said officer, or of the Collector or Assistant or Deputy Collector, publicly to announce, or to cause to be announced, the assessment fixed on each survey-number. Introduction of survey-settlement how made.

The said officer, or the Collector or Assistant or Deputy Collector shall, at a reasonable time beforehand, cause public notice to be given in such manner as he shall deem fit, of the time at or about which the assessments will be announced as aforesaid.

If the holder or other person interested in any holding do not appear in person or by agent, he shall be subject, nevertheless, to the same liabilities as if he had attended.

When the assessments have been announced in the manner provided in the first clause of this section, the survey-settlement shall be held to have been introduced.

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[1] "Levied" was substituted for "leviable" by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

[2] This reference was inserted by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

[3] As to the local modification of s. 103, *see* para. 3 of the third foot-note, on p. 631, *supra*

Excess assessment not to be levied in year in which survey-settlement is introduced;

104. In the year in the course of which a survey-settlement, whether original or revised, may be introduced under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be remitted, and the revised assessment shall be levied only from the next following year.

nor in following year if number resigned that year.

[1] In the year next following that in which any [2] [original or] revised survey-settlement has been introduced, any [3] occupant who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey-numbers held by him shall, on resigning such number in the manner prescribed by sections 74 and 76 on or before the thirty-first March, receive a remission of the increase so imposed.

Fixing of assessment under section 102 limited to ordinary land-revenue.

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land-revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village and district roads, bridges, tanks, wells, accommodation for travellers and the like, or of any rate for the use of water which may be imposed under the provisions of section 55 [4] [or of the Bombay Irrigation Act, 1879.] Bom. VII of 1879.

Government may direct fresh survey and revision of assessment.

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue-survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102 :

[5] Provided that, when a general classification of the soil of any area has been made a second time, or when any original classification of any area has been approved by the Governor in Council as final, no such classification shall be again made with a view to the revision of the assessment of such area.

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[1] As to the local repeal of s. 104, para. 2, *see* para. 3 of the third foot-note on p. 631, *supra*.

[2] These words were inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[3] As to the local modification of the word "occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] This reference was added by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

[5] This proviso was substituted for the second para. of s. 106 by the Bombay Land-revenue Code Amendment Act, 1886 (Bom. Act 4 of 1886), s. 1, *infra*, p. 861.
The original para. was as follows :—
"A revised assessment shall be fixed, not with reference to improvements made from private capital and resources during the currency of any settlement made under this Act or under Bombay Act I of 1865, but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce, or facilities of communications."

Revision of assessment.

[1] **107.** In revising assessments of land-revenue regard shall be had to the value of land and, in the case of land used for the purposes of agriculture, to the profits of agriculture:

Provided that, if any improvement has been effected in any land during the currency of any previous settlement made under this Act, or under [2] Bombay Act 1 of 1865, by or at the cost of the holder thereof, the increase in the value of such land or in the profit of cultivating the same, due to the said improvement, shall not be taken into account in fixing the revised assessment thereof.

Preparation of statistical and fiscal records.

108. It shall be the duty of the Survey-officer, on the occasion of making or revising a settlement of land-revenue, to prepare a register, to be called "the settlement-register", showing the area and assessment of each survey-number, together with the name of the [3] registered occupant of such survey-number and other records, in accordance with such orders as may from time to time be made on this behalf by Government.

Officers to correct clerical and admitted errors in settlement-register, and

[4] **109.** The Survey-officer, or, if the survey-settlement have been introduced under the provisions of section 103 by the Collector or Assistant or Deputy Collector, the Collector or Assistant or Deputy Collector, shall at any time correct or cause to be corrected any clerical errors, and any errors which the parties interested admit to have been made in the settlement-register;

inquire into and pass orders on applications for mutation of names.

he shall also receive and enquire into all applications made to him at any time within two years after the introduction of the survey-settlement for the correction of any wrong entry of a registered occupant's name in the said register, and if satisfied that an error has been made, whether through fraud, collusion, oversight or otherwise, shall correct or cause the same to be corrected, notwithstanding that all the parties interested do not admit the error;

but he shall not receive any such application at any time after two years from the date of the introduction of the survey-settlement, unless good cause

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[1] This section was substituted by the Bombay Land-revenue Code Amendment Act, 1886 (Bom. Act 4 of 1886), s. 2, *infra*, p. 861.

The original section was as follows:—

"Nothing in the last preceding section shall be held to prevent a revised assessment being fixed:—

(*a*) with reference to any improvement effected at the cost of Government, or

(*b*) with reference to the value of any natural advantage, when the improvement effected from private capital and resources consists only in having created the means of utilizing such advantages, or

(*c*) with reference to any improvement which is the result only of the ordinary operations of husbandry."

[2] The Bombay Survey and Settlement Act, 1865 (Bom. Act 1 of 1865, except ss. 37 and 38), p. 451, *supra*, is repealed by s. 2 of this Act.

[3] As to the local modification of the words "registered occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] As to the local repeal of s. 109, *see* paras. 3 and 4 of the third foot-note on p. 631, *supra*.

be shown to his satisfaction for the delay in making such application, and no such correction of the said register shall be made in consequence of any application made after the said period of two years, except with the previous sanction of Government.

Collector to keep survey-records and frame village-records in accordance therewith;

[1] **110.** The Collector shall keep the settlement-register and such other records prepared by the Survey-officer as Government shall direct, and shall cause the village-records and accounts to be prepared in accordance therewith;

and to register changes, etc.

he shall not make any alterations or corrections in the settlement-register, but shall cause to be registered in the village-records and accounts all changes that may take place, and anything that may affect any of the rights or interests therein recorded.

Revenue-management of villages or estates not belonging to Government that may be temporarily under Government management.

[2] **111.** In the event of any alienated village or estate coming under the temporary management of Government officers, it shall be lawful for the Collector to let out the lands thereof at rates determined by means of a survey-settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government officers:

Provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land.

Maintenance of existing settlements of land-revenue.

[3] **112.** Existing survey-settlement of land-revenue made, approved and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be, in force subject to the provisions of this Act.

Partition.

Rules for partition of an estate paying revenue to Government.

[2] **113.** The following rules shall be enforced at the partition of any estate paying land-revenue to Government (namely):—

(1) The estate shall be divided as far as possible according to survey-numbers without sub-dividing any number; but, if the parti-

[1] As to the local repeal of s. 110, *see* paras. 3 and 4 of the third foot-note on p. 631, *supra*.

[2] As to the local modification of ss. 111 and 113, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] As to the local repeal of s. 112, *see* para. 3 of the third foot-note on p., 631, *supra*.

tion cannot be completely effected without sub-dividing a number, such sub-division may be made by the Collector, subject to the provisions of section 98;

(2) any number, or sub-division of a number, which may remain over after the partition has been carried out, as far as possible according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provisions of section 98, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be sold and the proceeds divided amongst all the sharers, or otherwise disposed of as the Collector thinks fit;

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue-demand in such proportions as the Collector thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

Partition of certain estates by Collector on application by co-sharers.

114. Whenever any one or more co-sharers in a khotí estate into which a revenue-survey has been introduced [1] [or in a tálukdári estate], consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such share to the co-sharers:

Provided that no such partition shall be made, unless—

(*a*) all the co-sharers are agreed as to the extent of their respective rights in the estate, and

(*b*) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered under rule (3) of the last preceding section from all the co-sharers in the estate divided.

Sub-division of numbers at time of

115. At the time of a revision of survey, it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 98,

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[1] These words are repealed in the districts of Ahmedabad, Kaira, Broach and the Panch Maháls by the Gujarát Tálukdárs Act, 1888 (Bom. Act 6 of 1888), s. 3, Vol. III of this Code.

revision of survey.

and to any departmental rules or orders in this behalf at the time in force, to sub-divide any survey number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognized as [1] registered occupants of such sub-divisions in the settlement-register separately.

Separate demarcation of land appropriated under section 65 or 67.

[2] **116.** When any portion of cultivable land is appropriated under the provisions of section 65 or 67 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Collector, be demarcated, and made into a separate number at any time notwithstanding the provisions of section 98.

Bombay Act V of 1862 no affected.

117. Nothing in section 113, 115 or 116 shall affect the provisions of [3] Bombay Act V of 1862.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

Determination of village-boundaries.

[4] **118.** The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined, by Survey-officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Village-boundaries may be settled by agreement.

Rule 1.—When the patels and other village-officers of any two or more adjoining villages, and in the case of an alienated village the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon.

And any village-boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means.

Procedure in case of disagreement or dispute.

Rule 2.—If the patels and other village-officers, and, in the case of an alienated village, the holder thereof, or his duly constituted agent, do not agree to fix the boundaries of their respective villages in the manner prescribed in

[1] As to the local modification of the words "registered occupants," *see* para. 4 of the third foot-note on p. 631, *supra*.
[2] As to the local repeal of s. 116, *see* para. 4 of the third foot-note on p. 631, *supra*.
[3] *Supra*, p 372.
[4] As to the local modification of s. 118, *see* para. 3 of the third foot-note on p. 631, *supra*.

the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a Survey-officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

Determination of field boundaries.

[1] **119.** If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village-officers then present, it may be laid down as pointed out by the holder or person in occupation, and, if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the Survey-officer according to the village-records, and according to occupation as ascertained from the village-officers and the holders of adjoining lands, or on such other evidence or information as the Survey-officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the survey-records have been handed over to the Collector, a dispute arise concerning the boundary of any survey-number, it shall be determined by the Collector, who shall be guided in the case of survey-numbers by the survey-records, if they afford satisfactory evidence of the boundary previously fixed, and, if not, by such other evidence as he may be able to procure.

Settlement of boundary-disputes by arbitration.

120. If the several parties concerned in a boundary-dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and, if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision when confirmed by the said officer, or, if the said officer be a Survey-officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:

[1] As to the local modification of s. 119, *see* para. 3 of the third foot-note on p. 631, *supra*.

When award may be remitted for reconsideration.

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in section 520 of the [1] Code of Civil Procedure.

If arbitration fail, Survey-officer to settle dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a Survey-officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

Effect of settlement of boundary.

121. The settlement of a boundary under any of the foregoing provisions of this Chapter shall be determinative :—

(*a*) of the proper position of the boundary-line or boundary-marks, and

(*b*) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

Boundary-Marks.

Construction and repair of boundary-marks of villages and survey-numbers.

122. It shall be lawful for any Survey-officer authorized by a Superintendent of Survey or Settlement-officer, to [2] [specify, or cause to be constructed, laid out, maintained or repaired] boundary-marks of villages or survey-numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Requisition on landholders to erect or repair boundary-marks.

Such officer may require landholders to construct [3] [lay out, maintain] or repair their boundary-marks, by a notification which shall be posted in the chaurí or other public place in the village, to which the lands under survey belong, directing the holders of survey-numbers to construct [3] [lay out, maintain] or repair, within a specified time, the boundary-marks of their respective survey-numbers, and, on their failure to comply with the requisition so made, the Survey-officer shall then construct, [3] [lay out] or repair them, and assess all charges incurred thereby as hereinbefore provided.

General notification to be sufficient notice of requisition.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey-numbers within the limits of the lands to which the survey extends.

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[1] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

[2] These words were substituted for the words "caused to be constructed or repaired" by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901) s. 14 (*1*), Vol. IV of this Code.

[3] These words were inserted in the second para. of s. 122 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 14 (2), Vol. IV of this Code.

Description of boundary-marks.

[1] The boundary-marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and shall be of such dimensions and materials as may, subject to rules or orders made in this behalf under section 214, be determined by the Superintendent of Survey, according to the requirements of soil and climate.

Responsibility for maintenance of boundary-marks.

[2] **123.** Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by the Revenue-officers in cases of alteration, removal or disrepair. It shall be the duty of the village-officers and servants to prevent the destruction or unauthorized alteration of the village-boundary-marks.

Collector to have charge of boundary-marks after introduction of survey-settlement.

124. When the survey-settlement shall have been introduced into a district, the charge of the boundary-marks shall devolve on the Collector, and it shall be his duty to take measures for their [3] [construction, laying out] maintenance and repair, and for this purpose the powers conferred on Survey-officers by section 122 shall vest in him.

Penalty for injuring boundary-marks.

125. Any person convicted, after a summary inquiry before the Collector, or before a Survey-officer, Mámlatdár or Mahálkari, of wilfully erasing, removing or injuring a boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER X.

Of Lands within the Sites of Villages, Towns and Cities.

Fixing of Sites.

Limits of sites of villages.

126. It shall be lawful for the Collector or for a Survey-officer acting under the general or special orders of Government to determine what lands are

[1] This para. was substituted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 14 (3), Vol. IV of this Code. The original para. was as follows:—

"The size, material and description of boundary-marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate."

[2] As to the local modification of s. 123, *see* para. 3 of the third footnote on p. 631, *supra*.

[3] These words were inserted in s. 124 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 15, Vol. IV of this Code.

towns and cities how fixed.

included within the site of any village, town or city, and to [1] fix, and from time to time to vary, the limits of the same, respect being had to all subsisting rights of landholders.

Exemption from Land-revenue.

Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites.

[2] **127.** [3] Act XI of 1852, and Bombay Acts II [4] and VII [5] of 1863, shall be deemed to be applicable and to have always been applicable in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an inquiry into titles has been made under the provisions of [6] Bombay Act IV of 1868, which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Acts shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

Existing exemption when continued in case of certain lands.

[2] **128.** The existing exemption from payment of land-revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an inquiry into titles has been made under the provisions of [6] Bombay Act IV of 1868 shall be continued—

1st, if such lands are situated in any town or city where there has been in former years a survey which Government [7] recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land-revenue;

2nd, if such lands have been held wholly or partially exempt from the payment of land-revenue for a period of not less than five years before the application of [8] Bombay Act I of 1865 or [6] IV of 1868 to such town or city;

3rd, if such lands, for whatever period held, have been held wholly or partially exempt from payment of land-revenue under a deed of grant or of confirmation issued by an [9] officer whom Government recognize as having been competent to issue such deed.

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[1] For notifications fixing limits, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 542 to 545.

[2] As to the local repeal of ss. 127 and 128, *see* para. 4 of the third footnote on p. 631, *supra*.

[3] Vol. I of this Code, p. 58.

[4] *Supra*, p. 386.

[5] *Supra*, p. 437.

[6] Bom. Act 4 of 1863 is repealed by s. 2 of this Act.

[7] For notification recognizing such a survey, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 546.

[8] Bom. Act I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act. For the unrepealed sections, *see supra*, p. 451.

[9] For notification recognizing an officer for the purposes of this clause, *see* Bombay Government Gazette, 1896, Pt. I, p. 1312.

Right to exemption determined by Collector.

[1]129. Claims to exemption under the last preceding section shall be determined by the Collector after a summary inquiry, and his decision shall be final.

Occupancy-price payable in addition to assessment in certain cases.

[1]130. In towns and cities to which section 128 applies, the holders of any lands other than lands which have hitherto been used for purposes of agriculture only, which have been unauthorizedly occupied for a period commencing less than two years before [2] Bombay Act I of 1865 or [3] IV of 1868 was applied to the town or city in which the said lands are situate, shall be liable to pay the price of the occupancy of the said lands in addition to the land-revenue assessed thereupon.

The said occupancy-price shall be determined according to the provisions of section 62.

Miscellaneous.

Survey of land in such sites how conducted.

[1]131. If the Governor in Council shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town or city, under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such survey shall be conducted, and all its operations shall be regulated, according to the provisions of Chapters VIII and IX of this Act:

Proviso.

Provided that nothing contained in section 96, 97, 101, 103, 104 or 118 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

In certain cases survey-fee to be charged.

[1]132. When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building-site shall be liable to the payment of a survey-fee to be assessed by the Collector under such rules as may be prescribed in this behalf from time to time by Government: Provided that the said fee shall in no case exceed rupees five for each survey-number.

The said survey-fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city, or of such part thereof as the notice shall refer to.

In any town or city in which [3] Bombay Act IV of 1868 was in force before the passing of this Act, a similar public notice shall be issued by the

[1] As to the local repeal of ss. 129 to 132, *see* para. 4 of the third foot note on p. 631, *supra*.
[2] Bom. Act 1 of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act. For the unrepealed section, *see supra*, p. 451,
[3] Bom. Act 4 of 1868 is repealed by s. 2 of this Act.

Collector within six months after the passing of this Act[1] * * * * * *.

Sanad to be granted without extra charge.

[2] **133.** Every holder of a building-site as aforesaid shall be entitled, after payment of the said survey-fee, to receive from the Collector without extra charge one or more sanads, in the form of Schedule H, specifying by plan and description the extent and conditions of his holding:

Proviso.

Provided that, if such holder do not apply for such sanad or sanads at the time of payment of the survey-fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad.

Every such sanad shall be executed on behalf of the Secretary of State for India in Council by such officer as may from time to time be lawfully empowered to execute the same.

Assessment of lands hitherto used for purpose of agriculture only, appropriated to other purposes.

[2] **134.** If any land within the site of any village, town or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between Government and the holder under the provisions of any law for the time being in force, be appropriated to any other purposes, it shall be liable to payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

Limitation of certain suits.

[2] **135.** Any suit instituted in a Civil Court to set aside any order passed by the Collector under section 37 or 129, in respect of any land situated within the site of a village, town or city, shall be dismissed, although limitation has not been set up as a defence, if it has not been instituted within one year from the date of the order.

CHAPTER XI.

OF THE REALIZATION OF THE LAND-REVENUE AND OTHER REVENUE-DEMANDS.

Responsibility for Land-revenue.

Primary responsibility.

[3] **136.** The registered occupant shall be primarily responsible to Govern-

[1] The words "provided that in any such town or city no survey-fee shall be leviable when a fee has already been paid by a landholder for a sanad obtained by him under section 10 of the said Act" were repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[2] As to the local repeal of ss. 133 to 135, *see* para. 4 of the third foot note on p. 631, *supra*.

[3] As to the local modification of s. 136, *see* para. 3 of the third foot-note on p. 631, *supra*, and as to the local repeal of that section, *see* para. 4 of the same foot-note.

ment for the land-revenue of unalienated land, and the superior holder shall be primarily responsible to Government for the land-revenue of alienated land.

Recovery of land-revenue if person primarily responsible fails to pay it.

On failure of the person primarily responsible to Government for the land-revenue to pay the same according to the rules legally prescribed in that behalf, it may be recovered from the co-occupant of unalienated land or the co-sharer of alienated land, or in either case from the inferior holder or person in actual occupation of the land.

Credit allowed to inferior holder for recoveries made from him.

When land-revenue is recovered from any such co-occupant, co-sharer, inferior holder or other person, he shall be allowed credit for all payments which he may have made to the registered occupant or superior holder, or to his landlord, at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the registered occupant or superior holder or with his landlord for the amount recovered from him.

Priority of Government Claim for Land-revenue.

Claims of Government to have precedence over all others.

137. The claim of Government to any moneys recoverable under the provisions of this Chapter shall have precedence over any other debt, demand or claims whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment, or otherwise howsoever, against any land or the holder thereof.

Liability of crop for revenue of land.

138. In all cases the land-revenue for the current year, of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

Land-revenue when leviable.

Land-revenue may be levied at any time during the revenue-year.

139. The land-revenue shall be leviable on or at any time after the first day of the revenue-year for which it is due; but except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

Precautionary Measures for the Security of the Land-revenue.

Removal of crop which has been sold, etc., may be prevented until revenue paid.

140. When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether by order of a Civil Court or other public authority or by private agreement, the Collector may prevent its being removed from the land until the current year's revenue of the said land has been paid, whether the date fixed for the payment of the same, under the provisions hereinafter contained, has yet arrived or not.

But in no case shall a crop, or any portion of the same, which has been sold, mortgaged or otherwise disposed of, be detained on account of more than one year's revenue.

To secure land-revenue Collector may prevent reaping of crop, or

141. It shall be lawful for the Collector, in order to secure the payment of the land-revenue by enforcement of the lien of Government on the crop—

(*a*) to require that the crop growing on any land liable to the payment of land-revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

removal thereof, or

(*b*) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

place watchmen over it.

(*c*) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land-revenue due in respect of the land to which such crop belongs.

Collector's orders under last section how made known.

142. The Collector's orders under either clause (*a*) or clause (*b*) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the chauri or some other public building in the village.

If it be to individual holders, a notice thereof shall be served on each holder concerned.

Penalty for disobedience of order.

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the [1] Indian Penal Code abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry by the Collector, to a fine not exceeding double the amount of the land-revenue due on the land to which the crop belongs in respect of which the offence is committed. XLV of 1860.

Reaping, etc. not to be

143. The Collector shall not defer the reaping of the crop, nor prolong its

[1] *See* the reprint as modified up to 1st April, 1903.

deposit, unduly, so as to damage the produce; and, if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this Chapter, or take such portion thereof as he may deem fit, for sale under the provisions of this Chapter applicable to sales of moveable property in realization of the revenue due and of all legal costs, and release the rest.

unduly deferred. Crop when to be released.

144. If owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land-revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Temporary attachment and management of village or share of village.

The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payment of the land-revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector [1] * * * * * may direct.

Powers of manager, and disposal of surplus profits.

145. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue or any person who would be responsible for the same if default were made by the person primarily responsible, shall pay the costs, if any, lawfully incurred by the Collector up to the time of such relinquishment, and shall furnish security satisfactory to the Collector for the payment of the revenue, at the time at which, or in the instalments, if any, in which, it is payable under the provisions hereinafter contained.

Precautionary measures to be relinquished on security being furnished.

Regulation of Payment of Land-revenue.

146. Land-revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times, in such instalments, to such persons and at such places, as may from time to time be determined by the orders of Government.

Government to determine dates, etc., on which land revenue shall be payable.

[1] The words "subject to the orders of the Commissioner" were repealed by s. 2 (2) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905).

Defaulters.

rear. faulters.

[1] **147.** Any sum not so paid becomes thereupon an arrear of land-revenue and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

iabilities in- rred by de- ult.

148. If any instalment of land-revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to proceed to levy at once the entire balance of land-revenue due by the defaulter for the current year, in addition to such charge as a penalty or by way of interest as may be authorized according to a scale to be fixed from time to time, under the orders of the Governor in Council.

Certified account to be evidence as to arrears.

149. A statement of account, certified by the Collector or by an Assistant or Deputy Collector, shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear of the amount of land-revenue due and of the person who is the defaulter.

Collectors may realize each other's demands.

On receipt of such certified statement, it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this Chapter as if the demand arose in his own district.

A similar statement of account, certified by the Collector of Bombay, may be proceeded upon as if certified by the Collector of a district under this Act.

Recovery of Arrears.

Process for recovery of arreas.

150. An arrear of land-revenue may be recovered by the following processes :—

(*a*) by serving a written notice of demand on the defaulter, under section 152 ;

[2](*b*) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due, under section 153 ;

(*c*) by distraint and sale of the defaulter's moveable property, under section 154 ;

(*d*) by sale of the defaulter's immoveable property, under section 155 ;

(*e*) by arrest and imprisonment of the defaulter, under sections 157 and 158 ;

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[1] As to the local modification of s. 147, *see* para. 4 of the third footnote on p. 631, *supra*.
[2] As to the local repeal of s. 150, cl. (*b*), *see* para. 3 of the third footnote on p. 631, *supra*.

[1] (*f*) in the case of alienated holdings consisting of entire villages, or shares of villages, by attachment of the said villages or shares of villages, under sections 159 to 163.

Revenue-demands of former years how recoverable.

151. The said processes may be employed for the recovery of arrears of former years as well as of the current year, but the preferences given by sections 137 and 138 shall apply only to demands for the current year:

Proviso.

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year.

Notice of Demand.

When notice of demand may issue.

152. A notice of demand may be issued on or after the day following that on which the arrear accrues.

The Commissioner may from time to time frame rules for the issue of such notices, and with the sanction of the Governor in Council shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

Forfeiture of Occupancy [2] or alienated Holding.

Occupancy or alienated holding for which arrear is due may be forfeited.

[3] **153.** The Collector may declare the [2] occupancy or alienated holding in respect of which an arrear of land-revenue is due to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts.

Proviso.

[4] Provided that the Collector shall not declare any such [2] occupancy or alienated holding to be forfeited—

(*a*) unless previously thereto he shall have issued a proclamation and written notices of the intended declaration in the manner prescribed by sections 165 and 166 for sales of immoveable property, and

(*b*) until after the expiration of at least fifteen days from the latest date on which any of the said notices shall have been affixed as required by section 166.

Distraint and sale of defaulter's moveable property.

154. The Collector may also cause the defaulter's moveable property to be distrained and sold.

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[1] As to the local modification of s. 150, cl. (*f*), *see* paras. 3 and 4 of the third footnote on p. 631, *supra*.

[2] As to the local modification of the word "occupancy", *see* para. 4 of the third footnote on p. 631, *supra*.

[3] As to the local repeal of s. 153, *see* para. 3 of the third footnote on p. 631, *supra*.

[4] This proviso to s. 153 was added by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 16, Vol. IV of this Code.

By whom to be made.

Such distraints shall be made by such officers or class of officers as the Commissioner under the orders of Government may from time to time direct.

Sale of defaulter's immoveable property.

155. The Collector may also cause the right, title and interest of the defaulter in any immoveable property other than the land on which the arrear is due to be sold.

Exemption from distraint and sale.

156. All such property as is by the [1] Code of Civil Procedure exempted from attachment or sale in execution of a decree shall also be exempt from distraint or sale under either of the last two preceding sections.

The Collector's decision as to what property is so entitled to exemption shall be conclusive.

Arrest and Imprisonment.

Arrest and detention of defaulter.

157. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for ten days in the office of the Collector or of a Mámlatdár or Mahálkari, unless the revenue due, together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued, and the cost of his subsistence during detention is sooner paid.

Imprisonment in civil jail.

If, on the expiry of ten days, the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C, for imprisonment in the civil jail of the district:

Limit to detention of defaulters.

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a Civil Court for a debt equal in amount to the arrear of revenue due by such defaulter.

Power to declare by whom power of arrest to be exercised.

158. The Commissioner may, with the sanction of the Governor in Council, from time to time declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised, and also fix the cost of arrest and the amount of subsistence-money to be paid by Government to any defaulter under detention or imprisonment.

Attachment of Villages.

Power to attach defaulter's village, and take it under management.

159. If the holding in respect of which an arrear is due consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may, with the previous sanction of the Commissioner, cause such village or share of a village

[1] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Lands of such village to revert free of incumbrances.

[1] **160.** The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands, or against such superior holder or sharers as are interested therein, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals;

Powers of manager.

and the Collect or or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior holder or any of the sharers thereof, until the Collector restores the said superior holder to the management thereof.

Application of surplus-profits.

161. All surplus-profits of the lands attached, beyond the cost of such attachment and management, including the payment of the current revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111, [2] * * * shall be applied in defraying the said arrear.

Restoration of village so attached.

[3] **162.** The village or share of a village so attached shall be released from attachment and the management thereof shall be restored to the superior holder on the said superior holder's making an application to the Collector for that purpose at any time within twelve years from the first of August next after the attachment—

if at the time that such application is made it shall appear that the arrear has been liquidated;

or if the said superior holder shall be willing to pay the balance, if any, still due by him, and shall do so within such period as the Collector may prescribe in that behalf.

Disposal of surplus-receipts.

The Collector shall make over to the superior holder the surplus-receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs, but such surplus-receipts, if any, of previous years shall be at the disposal of Government.

Village, etc.,

[4] **163.** If no application be made for the restoration of a village or portion

[1] As to the local modification of s. 160, *see* para. 4 of the third footnote on p. 631, *supra*.

[2] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] As to the local modification of s. 162, *see* paras. 3 and 4 of the third footnote on p. 631, *supra*.

[4] As to the local repeal of s. 163, *see* para. 4 of the third footnote on p. 631, *supra*.

to vest in Government, if not redeemed within twelve years.

of a village so attached within the said period of twelve years, or if, after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all incumbrances created by the superior holder or any of the sharers or any of his or their predecessors in title, or in anywise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the actual occupants of the soil.

Stay of Proceedings.

Processes to be stayed on security being given;

164. Any defaulter detained in custody or imprisoned shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of Schedule D, satisfactory to the Collector or to such other person or officer.

or an amount demanded being paid under protest.

And any person against whom proceedings are taken under this Chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

Procedure in respect of Sales.

Procedure in effecting sales.

165. When any sale of either moveable or immoveable property is ordered under the provisions of this Chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and, in the case of moveable property, whether the sale is subject to confirmation or not, and, when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Proclamation of sales.

Such proclamation shall be made by beat of drum at the head-quarters of the táluqá, and in the village in which the immoveable property is situate, if the sale be of immoveable property; if the sale be of moveable property, the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

Notification of sales.

166. A written notice of the intended sale of immoveable property, and of the time and place thereof, shall be affixed in each of the following places, namely, the office of the Collector of the district, the office of the Mámlatdár or Mahálkari of the táluqá or mahál in which the immoveable property is situate, the chauri or some other public building in the village in which it is situate, and the defaulter's dwelling place.

In the case of moveable property, the written notice shall be affixed in the Mámlatdár's or Mahálkari's office, and in the chaurí or some other public building in the village in which such property was seized.

The Collector may also cause notice of any sale, whether of moveable or immoveable property, to be published in any other manner that he may deem fit.

Sale by whom to be made.

167. Sales shall be made by auction by such persons as the Collector may direct.

Time when sale may be made.

No such sale shall take place on a Sunday or other general holiday recognized by Government, nor until after the expiration of at least thirty days in the case of immoveable property, or seven days in the case of moveable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

Postponement of sale

The sale may from time to time be postponed for any sufficient reason.

Sale of perishable articles.

168. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

When sale may be stayed.

169. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale to the person appointed under section 146 to receive payment of the land-revenue due, or to the officer appointed to conduct the sale, or if he furnish security under section 164, the sale shall be stayed.

Sales of moveable property when liable to confirmation.

170. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of moveable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf.

In the case of sales made subject to confirmation, the Collector shall direct by whom such sales may be confirmed.

Mode of payment for moveable property when sale is concluded at once.

171. When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

Payment when sale is subject to confirmation.

172. When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

The full amount of purchase-money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office-day after such day.

On payment of such full amount of the purchase-money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

Deposit by purchaser in case of sale of immoveable property.

173. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Purchase-money when to be paid.

174. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immoveable property took place, or if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office-day after such fifteenth day.

Effect of default.

175. In default of payment within the prescribed period of the full amount of purchase-money, whether of moveable or immoveable property, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Liability of purchaser for loss by re-sale.

176. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land-revenue.

Notification before re-sale.

177. Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such re-sale takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sales.

Application to set aside sale.

178. At any time within thirty days from the date of the sale of immoveable property application may be made to the Collector to set aside the sale on the ground of some material irregularity or mistake, or fraud, in publishing or conducting it;

but, except as otherwise is provided in the next following section, no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

Order confirming or setting aside sale.

179. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Collector shall make an order confirming the sale:

Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Refund of deposit or purchase-money when sale set aside.

180. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

On confirmation of sale, purchaser to be put in possession.

181. After a sale of any [1] occupancy or alienated holding has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land included in such [1] occupancy or alienated holding, and shall cause his name to be entered in the revenue-records as [1] occupant or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the [1] occupancy or alienated holding to which the certificate refers.

Certificate of purchase.

Bar of suit against certified purchaser.

182. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

Application of proceeds of sale.

183. When any sale of moveable property under this Chapter has become absolute, and when any sale of immoveable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land-revenue;

[1] As to the local modification of the words "occupancy" and "occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

and the surplus (if any) shall be paid to the person whose property has been sold.

Expenses of sale how calculated.

The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by the Commissioner under the orders of Government.

Payment of surplus to creditors.

184. The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

Liability of purchaser for revenue.

185. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the sale.

Claims to attached moveable property how disposed of.

186. If any claim shall be set up by a third person to moveable property attached under the provisions of this Chapter, the Collector shall admit or reject his claim on a summary inquiry held after reasonable notice.

If the claim be admitted wholly or partly, the property shall be dealt with accordingly.

Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed.

Application of the Provisions of this Chapter.

What moneys leviable under provisions of Chapter.

187. All sums due on account of land-revenue, all quit-rents, nazranas, succession-duties, transfer-duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land-revenue;

and all moneys due by any contractor for the farm of customs-duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement,

and also all sums declared by this or by any other Act or Regulation at the time being in force [1] [or by any contract with the Secretary of State for India in Council] to be leviable as an assessment, or as a revenue-demand, or as an arrear of land-revenue,

shall be levied under the foregoing provisions of this Chapter.

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[1] These words were inserted by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

Sureties liable as revenue-defaulters.

And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money, shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of this Chapter as revenue-defaulters.

On resumption of farm, no payments to contractor in advance admitted.

And, in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payments which he may have made to the contractor in anticipation.

CHAPTER XII.

PROCEDURE OF REVENUE-OFFICERS.

Subordination of Revenue-officers.

188. In all official acts and proceedings a Revenue-officer shall, in the absence of any express provision of law to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

Power to summon persons to give evidence and produce documents.

189. Every Revenue-officer not lower in rank than a Mámlátdár's first kárkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make.

A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: Provided that exemptions under sections 640 and 641 of the [1] Code of Civil Procedure shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

Summons to be in writing, signed and sealed;

190. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal;

[1] *See* now ss. 640 and 641 of the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

how to be served.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Service in district other than that of issuer.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Mode of serving notices.

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any ;

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

Notice not void for error.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

Procedure for procuring attendance of witnesses.[1]

192. In any formal or summary inquiry, if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the [1] Code of Civil Procedure, section 160.

Formal Inquiry.

Mode of taking evidence in formal inquiries.

193. In all formal inquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by, or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him.

In cases in which the evidence is not taken down in full in writing by the officer making the inquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Taking evidence given in English. Translation to be on record.

When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record.

Writing and explanation of decisions.

194. Every decision, after a formal inquiry, shall be written by the officer passing the same in his own hand-writing, and shall contain a full statement of the grounds on which it is passed.

[1] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

Summary Inquiry.

Summary inquiries how conducted.

195. In summary inquiries the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all or any of the rules applicable to a formal inquiry, if he deem fit.

Formal and summary inquiries to be deemed judicial proceedings.

196. A formal or summary inquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of [1] the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a Civil Court for the purposes of such inquiry.

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Hearing and decision. Notice to parties.

Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Ordinary inquiries how conducted.

197. An inquiry which this Act does not require to be either formal or summary, or which any Revenue-officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Governor in Council, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translations, etc., how obtained.

198. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them, on due application being made for the same, subject to such charges for copying, etc., as may, from time to time, be authorized by Government.

Arrest of defaulter to be made upon warrant.

199. Whenever it is provided by this Act that a defaulter or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

[1] *See* the revised edition as modified up to 1st April, 1903.

Power of Revenue-officer to enter upon lands or premises for purposes of measurement, etc.

200. It shall be lawful for any Revenue-officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land-revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land-revenue or partially or wholly exempt from the same:

Proviso.

Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof without a notice having been served at the said building not less than seven days before such entry: and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Power to determine language of district.

201. The Governor in Council may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

Mode of evicting person wrongfully in possession of land.

202. Whenever it is provided by this or by any other Act for the time being in force that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the following manner, namely:—

by serving a notice on the person or persons in possession, requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and

if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and

if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Mámlatdár or Mahálkari, or send him with a warrant, in the form of Schedule I, for imprisonment in the civil jail of the district for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII.

APPEALS AND REVISION.

Appeal from order passed by Revenue-officer to his superior.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a Revenue-officer under this Act or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

Appeal to Governor in Council.

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

Limitation of appeals.

[1] **205.** No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments ; nor after the expiration of ninety days in any other case.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

Admission of appeal after period of limitation.

[1] **206.** Any appeal under this Chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the Governor in Council to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

Provision where last day for appeal falls on Sunday or holiday.

[1] **207.** Whenever the last day of any period provided in this Chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

What to accompany petition of appeal.

[1] **208.** Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Powers of appellate authority.

[1] **209.** The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

Powers to suspend execu-

[1] **210.** In any case in which an appeal lies, the appellate authority may,

[1] The provisions of ss. 205 to 210 have been declared to apply to all appeals under the Bombay Court of Wards Act, 1905 (Bom. Act I of 1905), *see* s. 43 (2) of that Act, Vol. IV. of this Code.

tion of order of subordinate officer.

pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to call for and examine records and proceedings of subordinate officers;

211. The Governor in Council and any Revenue-officer, not inferior in rank to a Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate Revenue-officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely,—an Assistant or Deputy Collector, a Mámlatdár, a Mahálkari, [1] [an] Assistant Superintendent of Survey, and an Assistant Settlement-officer.

and to pass orders thereupon.

If, in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit.

Explanation as to decisions or orders expressly made final.

212. Whenever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

Maps, land-registers and village-accounts, etc., open to inspection. Extracts and copies to be given.

213. Subject to such [2] rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and survey-records, and all village-accounts and land-registers shall be open to the inspection of the public at reasonable hours, and certified extracts from such maps, registers and accounts, or certified copies thereof, shall be given to all persons applying for the same.

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[1] The word "an" was substituted for the word "and" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 204.

[2] For rules as to payment of fees for inspection, *see* Bombay Government Gazette, 1881, p. 792, and *ibid*, 1888, p. 333.

Power to frame rules.

[1] 214. The Governor in Council may from time to time make, and from time to time vary or rescind, [2] rules or orders not inconsistent with this Act—

(*a*) determining the qualifications to be required of all members of establishments appointed under section 21 ;

(*b*) regulating the power of fining, reducing, suspending, and dismissing Revenue-officers under section 32 ;

(*c*) prescribing the purposes to which land liable to the payment of land-revenue may [3] [or may not] be appropriated under section 48 ;

(*d*) regulating the system and manner of assessing land to the land-revenue under sections 52 and 100 ;

(*e*) for the disposal of forfeited occupancies or alienated holdings under section 56 ;

(*f*) fixing the maximum amount of fine leviable under section 61 when land which has been unauthorizedly occupied is appropriated to any non-agricultural purpose ;

(*g*) for the administration of any survey-settlement [4] [and the maintenance of boundary-marks].

(*h*) prescribing the mode, form and manner in which appeals under Chapter XIII * * * [5] shall be drawn up and presented ;

(*i*) generally [3] [for carrying out the purposes and objects of this Act, and] for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

Rules or orders made under any of the above clauses (*c*), (*d*), (*e*), (*f*), or (*i*) may be made either generally or in any particular instance.

Rules to be published.

215. All general rules or orders made by the Governor in Council under the last preceding section shall be published, and when published shall, until cancelled or amended, have the force of law.

Power to provide for penalties.

It shall be lawful for the Governor in Council, in making any such general rule, to attach to the breach of it, in addition to any other consequences which would ensue from such breach, punishment, on conviction

[1] As to the local modification of s. 214, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] For general rules under this section and amendments made thereto from time to time, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. XCIX to CII.

[3] The words within square brackets in clauses (*c*) and (*i*) of s. 214 were inserted by s. 2 (*i*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[4] These words were inserted in cl. (*g*) of s. 214 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 17, Vol. IV of this Code.

[5] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 8 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

before a Magistrate, not exceeding one month's imprisonment,[1] * * * * or five hundred rupees fine, or both.

Chapters VIII to X how far applicable to alienated villages.

[2] **216.** Save as is otherwise provided in section 111 and hereinafter in this section, the provisions of Chapters VIII to X * * *[3] shall not be applied to any alienated village except for the purposes of fixing the boundaries of any such village, and of determining any disputes relating thereto. But the provisions of the said Chapters shall be applicable to—

(*a*) all unalienated lands situated within the limits of an alienated village ;

(*b*) villages of which a definite share is alienated, but of which the remaining share is unalienated ;

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess, if any, above such amount belongs to Government.

But it shall be lawful for the Governor in Council, on an application in writing being made by the holder of any such village to that effect, to authorize the[4] extension of all or any of the provisions of the said Chapters to any such village.

Occupants in alienated villages.

[2] **217.** When a survey-settlement has been introduced, under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as occupants in unalienated villages have or are affected by, under the provisions of this Act, and all the provisions of this Act relating to occupants and registered occupants shall be applicable, so far as may be, to them.

Construction of Act.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land or of Government in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

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[1] The words "of either description, within the meaning of the Indian Penal Code" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] As to the local repeal of ss. 216 and 217, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] For Notifications extending Chapters VIII to X or portions thereof to places in the Bombay Presidency, *see* List on pp. 100 to 120 of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

(*Schedule A.*)

SCHEDULE A.

(*See section 2.*)

Number and year.	Subject.	Extent of repeal.
	Bombay Regulations.	
IV of 1827 .	Forms of proceeding of the Courts of Law.	Clauses 2 & 3 of section 69.
XVI of 1827 .	Duties and powers of the Collector and subordinate Revenue-officers.	So much as has not already been repealed.
XVII of 1827 .	Assessment and realizations of the Land-revenue.	Ditto.
V of 1830 .	Revenue Commissioners and Sub-Collectors	Ditto.
XV of 1831 .	Punishment of Patels falsifying revenue-records.	Ditto.
II of 1832 .	Realization of Revenue from Farmers .	Ditto.
V of 1833 .	Embezzlement: Hereditary District and Village-officers.	Ditto.
	Acts of the Governor General in Council.	
XVIII of 1838 .	Security	The whole Act.
XIII of 1842 .	Collections of Inamdars' Revenues . .	Ditto.
XVII of 1842 .	Revenue Commissioners	So much as has not already been repealed.
III of 1846 .	Boundary-marks	Ditto.
XII of 1850 .	Public Accountants	The whole Act so far as it applies to Revenue-officers in the Presidency of Bombay.
XXI of 1852 .	Deputy Collectors	So much as has not already been repealed.
	Acts of the Governor of Bombay in Council.	
VII of 1863 .	Summary Settlement	Sections 4 & 5.
I of 1865 .	Survey	The whole Act, except sections 37 & 38.
[1]*	* * * * *	* * *
I of 1868 .	Powers and Duties of Assistant and Deputy Collectors.	The whole Act.
IV of 1868 .	City Surveys.	Ditto.
I of 1875 .	Amendment of (Bombay) Act I of 1865 .	Ditto.

[1] The entry relating to Bombay Act 1 of 1866 was repealed by the Repealing Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

WHEREAS I, ,
inhabitant of ,
have been appointed to the office of ,
and have been called upon to furnish security under the provisions of section 23 of the Bombay Land-revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Secretary of State for India in Council the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property, within such time, and to such person, as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein, I bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

[1] [Provided always that nothing herein contained nor the security hereby given shall be deemed to limit my liability in respect of the matters aforesaid to the forfeiture of the said sum of rupees only, and that should that sum be insufficient to recoup the Secretary of State for India in Council in full for any loss or damage sustained by him in respect of the matters aforesaid, I agree to pay to him on demand such further sum as shall be deemed by the person at the head of the said office necessary in addition to the said sum to cover such loss or damage as aforesaid.]

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE, ,
hereby declare ourselves sureties for the abovesaid ,
that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein, we hereby bind ourselves to forfeit to the Secretary of State for India in Council [2] [the sum of rupees, in which the abovesaid has bound himself, or such smaller] sum as shall be deemed sufficient by the to cover any loss or damage which the Government may sustain by reason of such default.

Dated

(*Signature.*)

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[1] This proviso was inserted by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[2] These words were substituted for the word "such" by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157.

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS *A. B.* of was, on the day of 187 , ordered by to (*here state the substance of the demand made*) ; and whereas the said *A. B.* has neglected to comply with the said order, and it has therefore been directed, under the provisions of section of the Bombay Land-revenue Code, that he be imprisoned in the civil jail until he obey the said order or until he obtain his discharge under the provisions of section 25 or 28 (*or* section 157 or 164, *as the case may be*) of the said Code ; you are hereby required to receive the said *A. B.* into the jail under your charge and to carry the aforesaid order into execution according to law.

Dated this day of 187 .

(*Signature of Collector.*)

SCHEDULE D.

FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164.

WHEREAS I, have been ordered by to (*here state the nature of the demand*), and whereas I dispute the right of the said to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of to contest the justice of the demand, and do agree that, in the event of a decree being passed against me, I will fulfil the same and will pay all amounts, including costs and interests, that may be due by me, or that, if I fail to institute a suit as aforesaid

I will, when required, pay the abovementioned amount of rupees (*or* will deliver up the abovementioned papers or property, *as the case may be*), and in the case of my making default therein, I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE,

hereby declare ourselves securities for the abovesaid that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

SCHEDULE E.

(*See section 84.*)

I.—FORM OF NOTICE TO BE GIVEN BY LANDLORD TO TENANT TO QUIT.

To *A. B.*

I DO hereby give you notice that I do intend to enter upon, and take possession of, the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the of 187 .

(*Signed*) *C. D.*

Dated this day of 187 .

II.—FORM OF NOTICE TO BE GIVEN BY TENANT TO LANDLORD OF HIS INTENTION TO QUIT.

To *C. D.*

I DO hereby give you notice that I shall quit and deliver up to you, at the end of this current year, terminating on the of 187 , the land (*here give the description*) which I hold from you.

(*Signed*) *A. B.*

Dated this day of 187 .

SCHEDULE F.

FORM OF COMMISSION TO BE ISSUED TO A HOLDER OF ALIENATED LANDS OR VILLAGES OR HIS AGENT, UNDER SECTION 89.

Seal.

The Governor in Council of Bombay, by virtue of the powers vested in him by the Bombay Land-revenue Code, is pleased to confer on you (jágirdár, *etc., or* agent, *etc., as the case may be,*) power to _____ in (*or* in respect of) the villages and lands specified in this commission, in the manner prescribed in (*or* in section of the said Code).

The villages and lands over which the power thus conferred upon you extends are as follows:—

(*Here enter the description.*)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Governor in Council.

(*Signed*)

SCHEDULE H.[1]

(*See section 133.*)

FORM OF SANAD FOR BUILDING-SITES.

(*Royal Arms.*)

THE SECRETARY OF STATE IN COUNCIL.

To_____

WHEREAS His Excellency the Governor of Bombay in Council, with a view to the settlement of the land-revenue, and the record and preservation of proprietary and other rights connected with the soil, has, under the provisions of the Bombay Land-revenue Code, directed a survey of the lands within the of , and ordered the necessary inquiries connected therewith to be made, this sanad is issued under section 133 of the said Code to the effect that—

There is a certain plot of ground occupied by you in the division of the of , registered No. , in the map marked sheet , No. , and facing towards the , the road leading from to , containing about square yards, and of the following shape and about the following dimensions:—

You are hereby confirmed in the occupancy of the above-described ground

[1] There is no Schedule G.

exempt from all land-revenue (*or* subject to the payment of ₹ per annum to the land-revenue).

The terms of your tenure are such that your occupancy is both transferable and heritable, and will be continued by the British Government without any objection or question as to title, to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the above land-revenue according to the provisions of the Bombay Land-revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the , and thereafter at successive periods of years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law).

This sanad is executed on behalf of the Secretary of State for India in Council by order of the Governor in Council of Bombay, by and under the hand and seal of , this day of one thousand eight hundred and A. D.

(*Signed*)

SCHEDULE I.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202.

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS *A. B.* of has resisted (*or* obstructed) *C. D.* in removing *E. F.* (*or* himself, that is, the said *A. B.*) from certain land in the village of , in the táluqá, and whereas it is necessary, in order to prevent the continuance of such obstruction (*or* resistance), to commit the said *A. B.* to close custody. You are hereby required, under the provisions of section 202 of the Bombay Land-revenue Code, to receive the said *A. B.* into the jail under your charge, and there to keep him in safe custody for days.

Dated this day of 187 .

(*Signature of Collector*).